

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37251
Docket No. SG-38084
04-3-03-3-532

The Third Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(The Belt Railway Company of Chicago

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Belt Railway of Chicago:

Claim on behalf of P. J. Rizzo, for 16 hours at the overtime rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Rule 17(A)4, when on Saturdays, March 16, 2002, and May 11, 2002, it would not allow the Claimant, who was the Technician with the most seniority, to work the open day shift position in the hump tower for the full 8 hour shift which began at 7:00 a.m. The Claimant was available for the 7:00 a.m. start, however, Carrier had him start at 11:00 a.m., denying him the opportunity to work the full eight hour shift for each Saturday claimed. Carrier's File No. 300-Signalmen. General Chairman's File No. 02-50-BRC. BRS File Case No. 12771-BELT.”

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

From the Board's review of the arguments and evidence by the parties during the on-property handling of this dispute, the Organization failed to meet its burden of proof. The Claimant was the only person who was qualified as a signal employee and available to work on both dates under examination. The Claimant was the most qualified signal employee, and it was proper that he be offered overtime in a manner that did not interfere with his regular assignment. Rule 17(A)4 was applied properly by the Carrier. There was a Signal Technician on duty that worked the preceding four hours (7:00 A.M. - 11:00 A.M.) and said employee was entitled to that overtime. The Carrier demonstrated a pattern of past practice and that practice had never been contested by the Organization. This claim lacks merit.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 27th day of October 2004.