

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37530
Docket No. SG-37260
05-3-02-3-230

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP):

Claim on behalf of Signal Maintainer R. E. Wright for three hours of pay at the time and one half rate, account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule and Rules 16 and 80, when it failed to call the Claimant for overtime service on his regular assigned territory on December 31, 2000. Carrier's File No. 1260869. General Chairman's File No. W-16-103. BRS File Case No. 11881-UP.”

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.

The material facts that led to this claim are not in dispute. At 10:45 A.M. on December 31, 2000, a Track Inspector discovered a stripped joint in the rail at MP 1059.4 on the Benson East territory. The Claimant is a Signal Maintainer on this territory. BMW-represented employees were called to remove and replace approximately 20 feet of the rail.

On January 27, 2001, the Organization filed a claim on behalf of Signal Maintainer R. E. Wright for three hours of compensation at his overtime rate. It was the Organization's contention that the Claimant should have been called out on overtime on December 31, 2000 to bond the rails that were installed by track forces on his territory. The Organization cited the Scope Rule, as well as Rules 16 and 80 in support of the claim.

The Carrier denied the claim contending that there was no need to call the Claimant out on overtime because no work covered by the Signalmen's Scope Rule was performed when the track forces changed the rail at MP 1059.4 on December 31, 2000. Rather, the Claimant performed the rail bonding the following day during his regular tour of duty.

The Rules cited by the Organization do not support the claim. The Scope Rule was inapposite because no signal work was performed on December 31, 2000, when track forces removed and replaced 20 feet of rail. It was management's prerogative to wait until the following day to perform the rail bonding work. The Claimant performed that work during his regular tour of duty.

Nor was Rule 16 violated. Rule 16 provides, in pertinent part, that unless registered absent, the regular assignee will be called for emergencies except when that employee is unavailable due to the Hours of Service Act. In our view, this provision applies when the Carrier determines that an emergency exists which requires a signal employee to be called. In this case, no signal employee was called on December 31, 2000, because the Carrier determined that there was no emergency and the bonding could be performed the following day on straight time. Accordingly, contrary to the Organization's contention there was no violation of Rule 16.

For all the foregoing reasons, the claim is denied.

Form 1
Page 3

Award No. 37530
Docket No. SG-37260
05-3-02-3-230

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 23rd day of June 2005.