

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37724
Docket No. SG-36932
06-3-01-3-488

The Third Division consisted of the regular members and in addition Referee Gerald E. Wallin 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 Railroad:

Claim on behalf of W. G. Gillette for payment of 9 hours and 30 minutes at the time and one-half rate. Account Carrier violated the current Signalmen's Agreement, particularly Rules 15A and 16 Note 2, when on July 27 & 28, 2000 Carrier called a junior employee to assist with fire control between MP 625 and MP 630. This action deprived the Claimant of the opportunity to perform this work. Carrier's File No. 1241386. General Chairman's File No. W-15-048. BRS File Case No. 11761-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 instant claim arose when a Signal Electronics Technician, junior to the Claimant in terms of signal seniority, was used to perform fire control duties at the straight time rate and was then retained in continuous duty at the overtime rate to perform the same fire control duty. The claim does not seek payment for any of the straight time fire control work, but only the portion of the Signal Electronics Technician's time that was paid at the overtime rate. Distilled to its essence, the claim says that there was no problem using the Signal Electronics Technician for fire control at the straight time rate, but rather than continue him in the same service at the overtime rate the Carrier was required to call the Claimant to perform the work instead.

Given the foregoing circumstances, it was incumbent upon the Organization to establish by Rule language applicable to the work involved that the Signal Electronics Technician could not be retained in continuous service to perform the work when the overtime rate was triggered. None of the Rules cited by the Organization provide any explicit language that required the Claimant to be called for the overtime in question to displace the Signal Electronics Technician.

Because the Organization failed to cite an explicit Rule that required interrupting the continuous service of the Signal Electronics Technician under the circumstances in question, there is no proper basis for concluding, on this record, that any of the work assignment Rules cited by the Organization were violated. The claim, therefore, must be denied.

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 February 2006.