

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37751
Docket No. SG-38079
06-3-03-3-531

The Third Division consisted of the regular members and in addition Referee James E. Conway when award was rendered.

(Brotherhood of Railroad Signalmen

PARTIES TO DISPUTE: (

(Canadian National/Illinois Central Railroad Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central:

Claim on behalf of K. J. Labedz, for \$637.40, account Carrier violated the current Signalman's Agreement, particularly Rule 13 (i), when on November 23 and 24, 2002, flag protection was needed for communication workers at MP 10 through MP 13 on the Joliet subdivision and Carrier allowed a relief signal maintainer to help perform the overtime service instead of the Claimant, who was the adjoining signal maintainer and senior to the relief signal maintainer Carrier assigned to help with the work.” Carrier's File No. IC-135-103-00001. General Chairman's File No. IC-018-02. BRS File Case No. 12695-IC.”

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.

It is undisputed that on the dates and at the site identified in the claim Relief Signal Maintainer K. W. Hamm and Signal Maintainer S. R. Stubblefield were directed to provide flag protection on the Joliet Subdivision for IBEW-represented Communication Workers. This claim ensued on December 9, 2002 seeking an award of reimbursement to Claimant Labedz at overtime rates for the 13 hours worked on November 23 and the seven hours worked on November 24, plus daily meal allowances. The claim is grounded on Rule 13 (i). It provides:

“When overtime service is required of a part of a gang or group of employees, the senior employees of the gang or group involved, who are available, shall have preference to it.”

In its denial, the Carrier first asserts that flag protection on the Illinois Central has never been exclusively reserved to Signalmen. It states that the Carrier has historically and routinely utilized Carmen, Clerical, Communication, Maintenance of Way, Signalmen and Train & Engine forces to do such work. Second, it represents that Claimant Labedz was not a member of the gang that worked the overtime. Third, no signal work was performed on the claim dates. And lastly, the work location at which the work was performed was on Signal Maintainer Stubblefield's territory, not the Claimant's.

The Organization has serious and legitimate interests in protecting that work which its members are entitled to pursuant to the Agreement. In this instance, however, it has not set forth any facts demonstrating a violation of the Rule cited. The record reflects that the Claimant was a Signal Maintainer on an adjoining territory and not a part of the gang or group of Communication employees involved in the work at issue. The claim necessarily fails for want of proof.

AWARD

Claim denied.

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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 21st day of March 2006.