

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37858
Docket No. SG-37683
06-3-02-3-776

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

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

STATEMENT OF CLAIM:

- "1. Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP).
2. Claim on behalf of J. D. Copple, for three hours at his time and one-half rate of pay, account carrier violated the current Signalmen's Agreement, particularly Rules 16 and 80, when it failed to call the Claimant on his regular assigned territory at Center Street, M.P. 718.76, on September 28, 2001, and called another employee instead, depriving the claimant of the opportunity to perform this work. Carrier's File No. 1293212. General Chairman's File No. W-16-145. BRS File Case No. 12280-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.

This case involves a trouble call for which the Carrier made repeated attempts to contact the Claimant, but to which the Claimant never responded. When the Carrier used a Signal Maintainer from another territory to respond to the trouble call the Organization contended that the Carrier violated the portion of the Collective Bargaining Agreement pertaining to pay for employees who actually perform overtime work.

On September 28, 2001, there was a report of damaged warning lights at a grade crossing on the Claimant's regular assigned territory. The Carrier called the Claimant's tie-up point, but the Claimant was not at home, so the Carrier left a message for the Claimant. The Carrier also paged the Claimant on his pager, but the Claimant did not respond to the page. The Carrier paged the Claimant a second time, but again received no response. The Carrier then called an alternate Signal Maintainer to respond to the trouble.

Even though the Carrier made multiple attempts to contact the Claimant for the trouble call, the Organization submitted the claim at issue. The claim contended that the Carrier had violated Rules 16 and 80 of the Agreement because the Claimant "... was not registered absent and was not called."

The Organization bears the burden to prove that the Carrier violated the Agreement. The record is clear that the Carrier tried to contact the Claimant to perform the work in question. The Claimant's loss of earnings was caused by his own failure to respond to calls.

AWARD

Claim denied.

Form 1
Page 3

Award No. 37858
Docket No. SG-37683
06-3-02-3-776

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 1st day of August 2006.