

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 37866  
Docket No. SG-38035  
06-3-03-3-471

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

(Brotherhood of Railroad Signalmen  
**PARTIES TO DISPUTE:** (  
(BNSF Railway Company

**STATEMENT OF CLAIM:**

- "1. Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe Railroad.
2. Claim on behalf of R. A. Gary, for 22 hours at one and one-half times his straight time rate of pay including skill pay, account Carrier violated the current Signalmen's Agreement, particularly Rules 2 and 10, and former ATSF Rule 12; when on August 22, 23, and 26, 2002, and September 3, 5, and 6, 2002, it used a relief signal maintainer and two signalmen off a gang to work overtime on maintenance following a tie and surfacing gang on the Claimant's assigned territory. Carrier's action deprived the Claimant of the opportunity to perform the overtime work. Carrier's File No. 35 02 0070. General Chairman's File No. 02-088-BNSF-33-K. BRS File Case No. 12723-BNSF."

**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 claim is similar to the claim that culminated in Third Division Award 37865. The arguments of the parties, as well as some of the dates are the same.

For the reasons cited in Award 37865, the instant claim will 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 1st day of August 2006.