

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 37880  
Docket No. SG-37792  
06-3-03-3-142

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(CSX Transportation, Inc. (former Louisville &  
( Nashville Railroad)

STATEMENT OF CLAIM:

"Claim on behalf of R. L. Beach, J. C. Moore, R. F. Garrett, Jr., E. D. Parker, B. L. Garrett and R. L. Copeland, for 71 hours each at their respective time and one-half rates of pay, account Carrier violated the current Signalmen's Agreement, particularly Rules 12, 14, 16, 17, 18 and Appendix DD, when it failed to allow the Claimants the opportunity to perform the planned overtime work during a cut-in at Ackworth, Georgia, starting on February 4, 2002, and ending February 11, 2002, and instead assigned the work to other employees. Carrier's File No. 15(02-0070). General Chairman's File No. 02-SYS-2. BRS File Case No. 12530."

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 is an overtime claim by the Organization alleging the Carrier's violation of Rules 12, 14, 16, 17, 18 and Appendix DD. The Organization argues that the Carrier assigned the installation work connected to a signal project at Ackworth, Georgia, which allegedly belonged to the Claimants, to other forces. Specifically, the Claimants were assigned to Gang 7XC3 to work on a new signal installation project and did so all of their regular hours. However, instead of permitting the Claimants to work the overtime on their project, the Carrier brought in Gang 7V16 so that it could stagger their hours and avoid the overtime payments that the Claimants were entitled to receive.

The Carrier denied violation of any Rules and specifically Appendix DD when it staggered the forces to cover hours. It does not deny that it had Gang 7XC3 perform the work just prior to the cut-over and then changed gangs, wherein the Gang that performed the prior work was sent home and Gang 7V16 came in on overtime to work the project. It maintains that it had every right under the Agreement to stagger the workweeks of the two Gangs.

The Board studied the record. The installation work of Construction Gang 7XC3 overlaid with the work of Construction Gang 7V16. Both Gangs worked on the project from February 4 to February 11, 2002. On February 4, 2002, Signal Construction Gang 7V16 worked overtime on their rest day, giving rise to this claim. Although the Claimants in Gang 7XC3 had been working on this project, the Claimants were not called for this work. Nor were they called on their six assigned rest days during the period of February 6 through February 11, 2002. Instead the Carrier used Gang 7V16 to work the Claimants' rest days. The Organization argues this was work belonging to the Claimants.

The Board reviewed Rules 12, 14, 16, 17 and 18 and does not see how they were violated. Nor did the Organization explain this on the property. Appendix DD states in part:

"(c) System Signal Construction Gangs – Employees assigned to such gangs shall have an assigned work period of eight (8) consecutive ten (10) hour work days beginning on Tuesday and will work straight

through the following Tuesday. The gangs rest days will be Wednesday, Thursday, Friday, Saturday, Sunday and Monday.”

Both gangs had proper workweeks. The claim for overtime for the one day Gang 7V16 worked overtime and the six days when the Claimants' Gang 7XC3 was on its rest days has no Agreement support. There is nothing in Appendix DD which prohibits the Carrier from working two System Signal Construction Gangs, or staggering their work cycles. The Claimants were assigned a proper work period. There is no Rule cited that would restrict the Carrier to using only Gang 7XC3 or require that they be used at the overtime rate on their rest days when another System Signal Construction Gang was available to work at the straight time rate of pay on their regular assigned workday.

Given the full facts, the claim must be denied for lack of Rule support or proof. There is nothing in this record to support a Carrier violation in assigning the work to other employees and not paying overtime to the Claimants.

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.