

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37894
Docket No. SG-36762
06-3-01-3-278**

The Third Division consisted of the regular members and in addition Referee James E. Conway 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 Company:

Claim on behalf of D. E. Beck for payment of six hours and 30 minutes at the time and one half rate. Account Carrier violated the current Signalmen’s Agreement, particularly Rules 13, 15, 16 and 80 when on March 25, 2000 Carrier allowed a junior employee to respond to a trouble call at MP 142.4 in LeGrand, Iowa. This action deprived the Claimant of the opportunity to perform this work. Carrier’s File No. 1230042. General Chairman’s File No. N13 15 16-063. BRS File Case No. 11638-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.

Brief background is critical to an understanding of the Carrier's agitation over this dispute. According to R. Easley, Manager Signal Maintenance at Cedar Rapids, Iowa, the three Signal employees at that location, including Local Chairman D. E. Beck had, for at least five and one-half years prior to this claim, worked amicably among themselves, dividing overtime calls equally and developing their own rotation schedule for calls as they took turns rotating nights and weekends.

On March 25, 2000, a weekend day, the Signal Operations Center in Omaha, Nebraska, called Maintainer Hopwood for overtime. Hopwood was on call for the weekend consistent with the established arrangement and pursuant to a trade he had made with fellow employee Zimmerman.

The Claimant registered dissatisfaction with that call. In response, on April 11 Easey, along with another manager, met with the Claimant and Signal Maintainers Zimmerman and Hopwood to discuss the issue. The Claimant persisted in demanding that calls be handled in seniority order. Zimmerman and Hopwood argued in favor of staying with the present system. No consensus was achieved, but Easley notified the Signal Operations Center to have a call list in seniority order available at all times in order to prevent claims by the Claimant.

Thereafter, on April 29, 2000, the Claimant submitted this claim asserting a violation of Rule 13 – OVERTIME, Rule 15 – CALLS and other provisions by virtue of the Carrier's calling junior Signal Maintainer Hopwood to bond a rail on March 25, 2000, at a time when the Claimant was senior and states that he was available.

The Organization takes the position that Rule 16, Note 2 authorizes the parties at the local level to establish appropriate overtime distribution policies subject to review by the General Chairman and Labor Relations. With the implementation of a new Collective Bargaining Agreement in February 2000, however, all such past understandings were negated. Accordingly, the Carrier's call to Hopwood on March 25 wrongfully deprived the Claimant of overtime to which he was entitled.

In denying the claim, the Carrier points out that the call list that Local Chairman Beck had previously agreed to was clearly sanctioned by the explicit terms of Rule 16, and that the new Collective Bargaining Agreement had no effect on the prior understanding. This, the Carrier says, is simply sharp shooting by the Claimant -

agreeing to an overtime list and then filing a claim on behalf of himself when the Carrier adhered to the agreed upon call order.

The Board concurs with the Carrier. The theory upon which the General Chairman prosecutes this case is frivolous. At no time does the Organization dispute the existence of the prior local Agreement. Indeed, it expressly confirms it. Nowhere in this record does the Claimant identify any Agreement provision that would have the effect of negating his prior understanding with management. The new Agreement in February 2000, in fact carried forward the controlling language on the subject unchanged. Thus, when the Claimant's theory is bumped by the new Agreement terms - which are identical to the old - it takes on a jokey aspect.

Based upon our review of the record, the Board concludes that the Carrier's sense of being "used" is well founded. Surprises such as this, which appear to put self-interest ahead of the communal good for which elected, can cause plenty to be anxious about. The Claimant very obviously had no objection to benefiting from another system when he was junior, and the Carrier clearly does not oppose calling overtime in strict seniority order now, but the Board has no kidney for either party springing changes on the other with no forewarning merely for personal gain and no interest in rewarding such games. The claim is 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 22nd day of August 2006.