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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 38096
Docket No. SG-37818
07-3-03-3-188**

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP)

Claim on behalf of A. F. Straub, for 3 hours at his time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 16, when it called a junior employee to the Claimant for overtime service account the number 5 switch located at MP 345.6 not locking up in the reverse position. The violation occurred on December 31, 2001, and deprived the Claimant of this work opportunity. Carrier’s File No. 1312633. General Chairman’s File No. S-16-251. BRS File Case No. 12481-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.

At issue in this dispute is Rule 16 – Subject to Call – of the Agreement between the parties. That Rule reads, in pertinent part, as follows:

“A. Employees assigned to regular maintenance duties recognize the possibility of emergencies in the operation of the railroad, and will notify the person designated by the Management of their regular point of call. When such employees desire to leave such point of call for a period of time in excess of two (2) hours, they will notify the person designated by the management that they will be absent, about when they will return, and, when possible, where they may be found. Unless registered absent, the regular assignee will be called, except when unavailable due to rest requirements under the Hours or Service Act, as amended by Public Law 94-348.”

On the date in question, the No. 5 switch located at CP X346 Mile Post 345.6 malfunctioned and would not lock in the reverse position. There is no disagreement on the record that the Carrier attempted to call the Claimant to come in for the trouble call, because it was located on his normal territory. The Claimant failed to respond to the call within what the Carrier considered a reasonable amount of time, and the Carrier proceeded to call the next available employee.

The Organization filed a claim in which it contended that, so long as the Claimant responded within two hours of the call, he was legitimately the employee who should have been assigned the work at issue. It based its claim on its interpretation of Rule 16. However, as can be seen above, the only reference to two hours is with regard to an employee expecting to be away from his usual “point of call” for that amount of time. Nothing in that Rule mandates that the Carrier must wait two hours for a response from the employee first called before proceeding to call the next eligible employee. The record in this case confirms that the Carrier made a good faith effort to call the Claimant, and, getting no response, waited a

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reasonable amount of time before proceeding to the next eligible employee. There is no showing on this record that the Carrier "rushed to judgment" in calling the employee ultimately assigned to perform the work in question. Accordingly the instant claim is denied in its entirety.

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 21st day of February 2007.