

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38222
Docket No. SG-38284
07-3-04-3-186

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 Railroad:

Claim on behalf of J. J. Burns and G. L. Bassett, for 10 hours each at the overtime rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rules 13, 15, 16 and 80, when on Saturday, March 1, 2003, Carrier allowed two employees junior to the Claimants to perform Signal Maintainer’s work at Mile Post 287.2 near the North Platte, NE, westbound classification yard. The Claimants have territories adjacent to the area where the work was performed and Carrier in the past has allowed senior employees from adjacent territories to perform the work. Carrier’s File No. 1361227. General Chairman’s File No. N 13 15 325. BRS File Case No. 12875-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.

The essential facts of this case are not in dispute. Signal Maintenance Gang 5146 was assigned by bulletin to work in the North Platte, Nebraska, classification yard. On March 1, 2003, the Carrier required the entire gang to perform mandatory overtime to complete a project they had begun working on during their normal workweek. The Organization filed the instant claim on March 16, 2003. It alleged that the Claimants, who were Signal Maintainers senior to Gang 5146 members K. J. Svejkovsky and C. E. Stock, should have been called in to do this work in their stead. The Organization proposed that, because the Claimants worked on territory adjacent to the classification yard, they should have been called in for the overtime work.

In its May 9, 2003 denial of the claim, the Carrier noted that the Claimants were both Signal Maintainers regularly assigned to mainline territories, not to the classification yard. The Organization appealed the Carrier's denial of the claim by letter of June 11, 2003, and the matter was subsequently progressed up to and including conference on the property on September 16, 2003, after which it remained in dispute.

The language of Rule 13 – Overtime is clear. "Where gang men are required to work overtime, the senior man in a class in the gang will be given preference to such overtime work." (Emphasis added.) There is no controversy in the record that the employees used for overtime in the classification yard were all members of Signal Maintenance Gang 5146. The Organization failed to show any contractual or historical support for its premise that the Carrier is obliged to reach to more senior employees on adjacent territories when the members of the regularly assigned gang are available for overtime work on their own assigned territory.

In light of the foregoing, the instant claim is denied.

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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 25th day of June 2007.