

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39315
Docket No. SG-38180
NRAB-00003-040096
(04-3-96)

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

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

STATEMENT OF CLAIM:

“Claim on behalf of General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe:

Claim on behalf of J. L. Harkey for one hour pay differential between Signal Maintainer and Signal Inspector account Carrier violated the current Signalmen’s Agreement, particularly Rule 2, when on Tuesday, December 17, 2002, it required the Claimant to perform annual timing tests at Yost, Illinois, MP 173.7, which is work specifically assigned to Signal Inspectors according to Carrier’s Instruction Book. Carrier’s File No. 35 03 0027. General Chairman’s File No. 03-020-BNSF-20-C. BRS File Case No. 12827-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.

The dispute arises as a result of a contention that the Carrier violated Rule 2 and Rule 16 when it had the Claimant, who was assigned to a position of Signal Maintainer, perform annual timing tests on signal equipment at Yost, Illinois, on December 17, 2002. It is the position of the Organization that such work is exclusively reserved to Signal Inspectors.

Study of Rule 2, a classification Rule, shows that descriptions of the work of both Signal Maintainers and Signal Inspectors includes work related to "tests."

The Signal Maintainer description states that an employee assigned to such position may perform inspections and tests incidental to the maintenance of the territory to which assigned.

The Signal Inspector description, in addition to referencing tests, states: "Inspectors may work together or with signalmen or signal maintainers with or without their assistants and/or helpers in connection with testing and inspecting." Further, the description clearly states: "This rule shall not be construed as restricting the inspection and/or testing of signal apparatus, appliances, circuits and appurtenances by other employees covered by this agreement."

While Rule 16, "Filling A Higher Rated Position," prescribes that an employee required to fill the place of another employee receiving a higher rate will receive the higher rate for time so assigned, the Board is not persuaded in view of the above referenced provisions of Rule 2 that the Claimant, a Signal Maintainer, was precluded from performing the timing tests at issue, albeit such tests may generally have been assigned to higher ranked Signal Inspectors.

The Board not finding any applicable Rules to provide that the Carrier is obligated to compensate the Claimant, a Signal Maintainer, a one hour pay differential between his rate of pay and that of a Signal Maintainer (31 cents) the claim will be 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 29th day of September 2008.