

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39701
Docket No. SG-38244
09-3-NRAB-00003-040157
(04-3-157)

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

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

STATEMENT OF CLAIM:

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

Claim on behalf of G. D. Shrum, for 8 hours, account Carrier violated the current Signalmen’s Agreement, particularly Rule 2, when on Tuesday, February 25, 2003, Carrier required a signal maintainer to perform annual timing tests at various signal locations, the work of which in the past has specifically been assigned to signal inspectors. (Carrier’s File No. 35 03 0040; General Chairman’s File No. 03-050-BNSF-20-C; BRS File Case No. 12826-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.

In putting forth this claim, the Organization maintains that the Carrier violated Rule 2, a classification of work Rule in the current Agreement, when it required a Signal Maintainer perform annual timing tests on signal equipment, a job function the Organization says is exclusively reserved to Signal Inspectors.

The issue in dispute is not unlike that which the Board considered and ruled upon in recent Third Division Award 39315, involving the same parties and same Agreement Rule language.

In Award 39315 the Board concluded in study of the record that the description of work as contained in Rule 2 shows work related to "tests" to be job functions of both Signal Maintainers and Signal Inspectors. The Board further noted that the description of work for a Signal Inspector 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."

For the same reasons as held by the Board in Award 39315, the instant claim will likewise be 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 26th day of May 2009.