

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40603
Docket No. SG-40608
10-3-NRAB-00003-080456**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman 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. C. Alvarez, for nine hours at his time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rules 5, 7, 8, 13 and 15, when it required the Claimant to perform service outside his regular assigned hours on February 22, 2007 then failed to compensate him as required by the Agreement. Carrier’s File No. 1472767. General Chairman’s File No. N 15 672. BRS File Case No. 13977-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 Claimant is assigned to the Signal Department and works a 2:30 P.M. to 10:30 P.M. shift. This claim protests the failure of the Carrier to compensate Claimant at the time and one-half rate of pay for his attendance at a required Rules training class outside of his assigned work hours on February 22, 2007 commencing at 8:00 A.M., when he returned and worked his normal assignment between 2:30 and 6:30 P.M. The Organization relies on Rules 5 (40-Hour Work Week) 7 (Shifts) 8 (Change of Shift) 13 (Overtime) and 15 (Calls) of the Agreement in support of Claimant's entitlement to the overtime pay rate. It involves an annual training class to instruct employees on the federally mandated Operating Rules and regulations applicable to the daily performance of signal work, which is similar in content to the training dealt with by the Board in Third Division Award 36628 and Public Law Board No. 6459, Award 12. Because the arguments of the Organization and the Carrier set forth in Third Division Awards 40599 and 40600 are identical to the ones made in this case, they are incorporated herein by reference.

A careful review of the record convinces the Board that this claim is governed by the holding and rationale of Award 40599, as well as the principle of stare decisis confirming the application of the mutuality of benefit exception to the "work or service" rule to classes on Operating or Safety Rules that occurred in this case. See Public Law Board No. 6459, Awards 12, 13, 26 and 35 and Third Division Awards 36628 and 39360. Thus, no violation of Rules 5, 13 or 15 has been established. Similarly, the finding that the Organization failed to sustain its burden of proving that the Claimant's shift times were changed in order for him to attend his training class, a prerequisite to a finding of entitlement to time and one-half pay under Rules 7 and 8, is equally applicable herein. Because the record makes clear that the Claimant was paid the straight time rate of pay for his attendance at the training class, as well as for the work he performed on the claim date, the claim for additional compensation must be denied.

AWARD

Claim denied.

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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 27th day of August 2010.