

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41190
Docket No. SG-40745
12-3-NRAB-00003-080619**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Northeast Illinois Regional Commuter Railroad
(Corporation (Metra)

STATEMENT OF CLAIM:

“ Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Northeast Illinois Regional Commuter Rail Corp.:

Claim on behalf of T. A. Fullgraf and G. M. Jones for eight hours each at their respective overtime rates of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15 and Side Letter 10 (dated May 16, 1999), when it used junior employees instead of the Claimants for overtime service on August 29, 2005, and denied the Claimants the opportunity to perform this work. Carrier’s File No. 11-28-517. General Chairman’s File No. 211-MW-05. BRS File Case No. 14101-NIRC.”

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.

On August 29, 2005, the Carrier's Signal employees were working with a contractor on the Carrier's property. The contractor was digging and trenching and the Signal employees were providing guidance for the appropriate place for the contractor to dig. After the Signal employees departed the location where the contractor was working, the contractor inadvertently cut a signal cable causing grade crossing gates to lower into the down position and disabling a portion of the signal system, including grade crossing protection circuits. In response, the Carrier assigned Signal gangs to repair the cable, which commenced during their regular work hours. The Claimants were not assigned to perform the repair work. Asserting their seniority, this claim followed with the Organization seeking compensation for lost overtime opportunities for the Claimants.

We need not address the parties' arguments concerning the Claimants' entitlements to overtime work under Rule 15 and Side Letter No. 10. The record evidence sufficiently establishes the existence of an emergency, which allowed the Carrier to make the contested assignments in this case. See Third Division Award 38946 between the parties:

"... The Carrier has substantial latitude in dealing with emergencies. See Third Division Award 26677 and Awards cited therein ('The Board has held that in an emergency Carrier may take whatever action it deems appropriate to cope with its problems. . . .')

This claim lacks merit and shall 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 22nd day of February 2012.