

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20408  
Docket Number SG-20429

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(The Atchison, Topeka and Santa Fe Railway Company  
( - Eastern Lines -

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka and Santa Fe Railway Company that:

(a) The Carrier violated the Signalmen's Agreement, effective May 1, 1966, particularly Article 2, Section 11-(a)-2, when on March 11, 1972, Carrier called and used Lamy Signal Maintainer M. M. Lark, to perform overtime signal work at the OS Section at the east end Fox siding, instead of Las Vegas Signal Maintainer J. D. Williams. Signal Maintainer Lark was called account the OS section showed occupied on the TCS machine. Las Vegas Signal Maintainer J. D. Williams was not registered absent and was available for call to perform the necessary signal work on his assigned territory.

(b) Claim by the Brotherhood in behalf of Signal Maintainer J. D. Williams for payment at his respective overtime rate of pay for a number of hours equivalent to the number of hours worked and paid to Signal Maintainer M. M. Lark, which was a four (4) hour call.

[Carrier's File: 132-128-24]

OPINION OF BOARD: Trouble was reported on claimant's assigned territory.

Carrier tried to call claimant but did not reach him. A Signal Maintainer from an adjoining territory got the call.

Carrier has introduced a statement from the operator in which he stated "I tried to phone Mr. Williams several times and received no answer." Claimant stated "I was at my residence March 11, 1972 and available for call to perform any work on my assigned territory."

The Board has often held that in the face of a conflict, such as that presented here, it will dismiss the claim on the basis that claimant has failed "to establish facts sufficient to require or permit a finding that Carrier" violated the Agreement (Awards 16152, 17586, 18705, 18871 and others). Accordingly, the claim is dismissed.

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FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Claim must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1974.