

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20835  
Docket Number SG-20633

William M. Edgett, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(George P. Baker, Robert W. Blanchette and  
( Richard C. Bond, Trustees of the Property  
( of Penn Central Transportation Company,  
( Debtor

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Penn Central Transportation Company (former New York Central Railroad Company-Lines West of Buffalo):

On behalf of Signal Maintainer R. J. Clawson for six (6) hours' pay at the overtime rate, account on December 9, 1972, Norfolk & Western Railroad signal forces performed signal rail bonding work in the limits of the Veedersburg Interlocking. [Case No. BRS-W17]

OPINION OF BOARD: The facts in this case are essentially undisputed.

The Carrier required the use of an employee to perform rail bonding work at Veedersburg Interlocking on December 9, 1972. The necessity for this work arose out of the replacement of a defective rail by Norfolk & Western track forces who were working in the vicinity. The Carrier used a Norfolk & Western maintainer who was working with the track forces to perform the bonding work. The Carrier concedes the work normally would accrue to the Signal forces of this Carrier but asserts in defense of its use of Norfolk & Western forces that its attempt to call the Signal Maintainer proved unsuccessful and while it considered calling the Claimant, it did not do so because of the emergent nature of the work.

While we concede the Carrier's right in a bonafide emergency to take those necessary precautions to protect its property and perform its service, we are of the opinion the Carrier has not proven the present factual situation is one constituting an emergency which justifies the use of non-contract employees to perform signal work. On the other hand, there is no proven basis for a claim of six hours overtime compensation in this case and we will award Claimant a call as provided by Rule 12(b).

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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 Agreement was violated as expressed in the opinion.

A W A R D

Claim sustained per opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

G. W. Paulsen  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of October 1975.