

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24046
Docket Number SG-24294

George S. Roukis, Referee

PARTIES TO DISPUTE: { Brotherhood of Railroad Signalmen
{ Consolidated Rail Corporation

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (former Lehigh Valley Railroad Company):

SYSTEM DOCKET 1547
ATLANTIC REGION, LEHIGH DIVISION CASE ALSI-6-80

Claim of Leading Signalman J. E. Jones, Jr. for eight (8) hours at the time and one-half rate account not used for overtime on March 31, 1980."

OPINION OF BOARD: Leading Signalman J. E. Jones, Jr. filed a claim for eight (8) hours at the time and one half rate because he asserts that Carrier did not use him for overtime on March 31, 1980. He contends that the person called to perform this work was not only junior to him in seniority status, but was not on the call list for the territory where the contested work was performed. He argues that Carrier did not call him to perform this work although he was home and available for this assignment.

Carrier contends that the person assigned to perform this work was the first person on the call list and was called to perform snow duty and related service at the Lite Side Allentown Yard. It argues that it exhausted all the options of the call list and Claimant failed to answer the telephone call made to his residence.

In our review of this case, we concur with Claimant's position. Carrier avers that Signalman F. Schwartz, who was called to perform this work, was ahead of Claimant on the call list. The call list, however, does not verify this averment. Signalman Schwartz is not even listed on the call list and Claimant is ranked third on the list for the Allentown Yard. In addition, we find no proof that Carrier, in fact, called Claimant at his home. The "Calling Agreement" which was consummated by the parties on November 16, 1978 provides clearly defined procedures for calling C&S Department employees for trouble involving maintainer's work outside their regular hours. Section 11, in particular, requires Carrier to keep the call record for a period of not less than three months and available for review by the Local and General Chairman. When asked by the General to see the call list, Carrier was unable to provide it. Under this Agreement, Carrier was obligated to maintain a call record and have it available for review upon request. It did not comply with these requirements. Instead, we find that Carrier failed to prove that it made the number of calls required by the Calling Agreement and, as such, it violated its basic terms. The General Chairman asked to see the call record, but it was not produced.

In Third Division Award No. 21146, which conceptually parallels this case, we found against Petitioner because he did not ask to see Carrier's records after asserting his availability for work. We pointedly noted in that Award that if he had requested the records and had been denied, the claim would have been sustained. In the instant case, the facts are just the reverse and Carrier failed to produce the call record when asked by the General Chairman. The Organization, in effect, had challenged the Carrier's position and prevailed. We will sustain the claim.

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 Employee involved in this dispute are respectively Carrier and Employee 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.

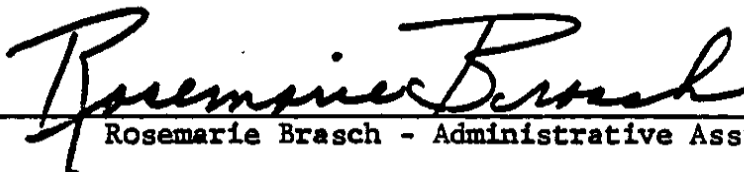
A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of November 1982.

