

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former SCL)

STATEMENT OF CLAIM: "Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Seaboard System Railroad (SCL):

On behalf of K. R. Lamb, for payment of twenty and one-half (20.5) hours pay at his punitive rate of pay and twenty (20) hours pay at his double time rate of pay, account of Carrier violated the current Signalmen's Agreement, as amended, particularly, Rules 9 and 16, when it used a junior employee to perform overtime work on February 8, 9 and 10, 1989." Carrier file 15-(89-39). BRS file Case No. 7918-SSR-SCL.

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

The Organization filed this Claim when the Carrier purportedly used a junior Signalman to perform overtime work on February 8, 9, and 10, 1989, instead of the Claimant. The Organization claims 20.5 hours at the overtime rate and 20 hours at the double time rate. According to the Organization, a statement by the junior Signalman establishes he performed signal work on the days in question. The Board finds that statement to be at best ambiguous. The only evidence of the junior Signalman working any overtime is five hours on February 10, 1989. Given the unique circumstances of this dispute, the Board concludes that if the Claimant is entitled to anything, it is five hours at the pro rata rate because the Claim is for service not performed. We so sustain five hours of pay at the pro rata rate.

A W A R D

Claim sustained in accordance with the Findings.

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Award No. 29026
Docket No. SG-29231
91-3-90-3-109

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois this 28th day of October 1991.