

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33227
Docket No. SG-34287
99-3-97-3-885**

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Wheeling & Lake Erie Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Wheeling & Lake Erie Railway Company (W&LE):

Claim on behalf of G.J. Remenaric for payment of an additional three hours per week at the straight time rate, beginning October 14, 1996, and continuing for the term of the violation, and for the Claimant to be given a seniority date of October 14, 1996, in the Senior Communication Technician class, account Carrier violated the current Signalmen’s Agreement, particularly Rules 2 and 6, when it abolished the position of Senior Communication Technician and created a lower-rated position of System Communication Technician to cover the same class of work. General Chairman’s File No. 231/961130B. BRS File Case No. 10468-W&LE(S).”

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.

This dispute has its basis in Appendix 1 - RATES OF PAY of the negotiated Rules Agreement. That Appendix reads as follows:

"APPENDIX 1

RATES OF PAY

<u>Position</u>	<u>Per Hour</u>	<u>Per Week</u>
1. Senior Signal Technician Senior Communication Technician	\$ 12.50	\$ 650.00
2. Signal & Communication Foreman	\$ 12.50	\$ 650.00
3. Signal System Technician Communication System Technician	\$ 12.50	\$ 612.50
4. Signal & Communication Technician	\$ 11.50	\$ 563.50
5. Assistant*	\$ 9.125	

Note: Wages will be rounded off to the nearest cent.

The W&LE shall maintain at the least one (1) position as Senior Technician and three (3) positions as system technician. However, if there is two (2) Senior Technicians, the W&LE may reduce the systems technicians to two (2) positions. One senior or system technicians shall be assigned to communications.

* Assistants - Employees which have two years or less service with the W&LE."

The fact situation which existed in this case was as follows:

1. Prior to 10-1-96 there were two Senior Technician positions in existence - one as a Senior Signal Technician and the other as a Senior Communication Technician;
2. On 10-1-96 the incumbent of the Senior Communications Technician position was promoted to a supervisory position;
3. The Senior Signal Technician position continued in existence;
4. The Senior Communications Technician position was abolished;
5. On 10-14-96 a System Communications Technician position was bulletined;
6. On 10-24-96 Claimant bid for and was awarded the System Communications Technician position;
7. On or about 2-26-97 the Senior Signal Technician position was abolished and a Senior Communications Technician position was bulletined;
8. Claimant was awarded the Senior Communications Technician position.

From this litany of events it is obvious that at all times pertinent during this dispute Carrier maintained "at the least one (1) position as Senior Technician" as required by Appendix 1. It is also obvious that there was at all times "one senior or system technician assigned to communications" (underscore ours).

There is no convincing evidence to support the contention that Claimant was required to perform the duties of a Senior Communications Technician prior to his being assigned to such a position. Neither is there any basis to be found in the Agreement to support a claim for payment of an "additional three hours per week" because of the rearrangement of forces which occurred in this situation. The claim as presented is denied.

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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 21st day of April 1999.