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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33896
Docket No. SG-34225
00-3-97-3-785**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Long Island Rail Road**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Long Island Rail Road:

Claim on behalf of M.C. Isernia, et al., for payment of eight hours each at the double time rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 40, when it used junior employees, instead of Claimants, to perform snow removal work on January 10, 1996. Carrier’s File No. SG-02-96. BRS File Case No. 10403-LI.”

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.

Claimants in this appeal are 24 employees assigned to various positions in Carrier’s Signal and Communications Department. The dispute developed in connection with the assignment of overtime that resulted from a snowstorm during January 1996.

On March 5, 1996 the Organization submitted a claim alleging that Carrier had violated Agreement Rule 40 (Overtime) and the Scope Rule when it “assigned junior employees and outside civilians to an overtime assignment on January 10, 1996 and sent the senior above mentioned claimants home.” In its May 1, 1996 denial, Carrier stated, in pertinent part:

“For three days prior to January 10, 1996, the Railroad committed its entire force, around the clock, to combating the worst blizzard to hit the New York Metropolitan area in almost 40 years. On January 10, 1996, the emergency was officially ended; however, there still was clean up work to be done. It was at this point, with safety in mind, to scale the work force back to 16 hour shifts.”

Since the Claimants worked continuously from Sunday, January 7, 1996 through 8:00 A.M. (for some employees) and 4:00 P.M. (for others) on January 10, 1996, they were sent home for rest and were instructed to return at midnight January 10, 1996 to work the second 16 hour shift. This would afford them eight hours rest after working for almost three days straight. The junior employees were asked to work the first 16 hour shift, since they were released from duty by 4:00 P.M. on January 9, 1996, and as a result had received eight hours rest prior to returning to work on January 10, 1996.

The Organization’s allegation that outside civilians worked an overtime assignment while senior employees were sent home on January 10, 1996, is incorrect. Traditionally, the Carrier has contracted snow removal to outside contractors in cases of severe storms. In this situation, the Carrier utilized outside contractors to work eight hours per day and were not assigned to work overtime.

Careful examination of the record evidence supports Carrier’s position that the senior employees were given priority for overtime to the maximum extent possible, given the practical limits of human exhaustion and the extreme exigencies of the weather emergency situation. We also note the unrefuted fact that Claimants earned, on average, 19.5 hours at time and one-half and 53.4 hours at double time, whereas the junior employees listed earned 23.5 hours at time and one-half and 37.7 hours at double time. Based on the unique factual circumstances presented on this record, we find no violation of Claimants’ seniority rights and therefore deny the claim.

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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 24th day of January, 2000.