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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35091
Docket No. SG-31739
00-3-93-3-750**

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Consolidated Rail Corporation (CONRAIL):

Claim on behalf of W. C. Dyke, G. J. Brosius, R. A. Stevens and H. F. Thomas for payment of 41 hours at their respective time and one-half rates, account Carrier violated the current Signalmen’s Agreement, particularly Rule 5-A-2, when it failed to offer the Claimants the opportunity to perform overtime service on August 28, 29 and 30, 1992, and instead utilized junior employees to perform this work. Carrier’s File No. SG-521. General chairman’s file No. RM2377-40-1292. BRS File Case No. 9153-CR.”

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 case involves a claim by the Organization that the Carrier violated the Agreement by utilizing junior employees to perform overtime work on August 28, 29 and 30, 1992. The Organization asserts that the Carrier failed to make the necessary effort to contact the Claimants.

The Carrier, on the other hand, asserts that it did not violate the Agreement. It asserts that Claimants Thomas and Brosius were on vacation and did not specifically notify the Carrier that they wished to be on call for overtime. The Carrier further claims that it attempted to reach the Claimants by calling the location where they were headquartered, but was unable to contact them immediately. The Carrier maintains that time was of the essence because it needed to confirm immediately with AT&T that it would be able to supply a crew to work with it.

After carefully reviewing the record evidence, we have determined that the Organization's claim must be sustained in part and denied in part.

Claimants Thomas and Brosius were on vacation during the workweek prior to the claim dates. There is no record evidence that either of them advised the Carrier in advance that they wanted to be called for overtime during their vacations. They were required to do so if they wanted to be called. We believe this obligation fairly extends to the rest days immediately following and continuous with their vacation periods.

However, the claims of the Claimants Dyke and Stevens are sustained. The Carrier has not provided any concrete evidence supporting its assertion that a reasonable effort was made to contact those Claimants in order to offer them the overtime.

Accordingly, Claimants Dyke and Stevens each shall be paid 41 hours at the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 15th day of November, 2000.