

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35093
Docket No. SG-31815
00-3-94-3-96**

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 K. J. Warren Jr. for payment of 6.5 hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Appendix ‘P,’ when it called another employee instead of the Claimant in connection with signal trouble on July 4, 1992, and deprived the Claimant of the opportunity to perform the work. Carrier’s File No. SG-515. General Chairman’s File No. RM2390-225-193. BRS File Case No. 9323-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, particularly Appendix "P," when it failed to call the Claimant for work on his assigned territory on July 4, 1992. The Organization asks that the Claimant be made whole for the loss of the work opportunity and seeks six and one-half hours' pay at the time and one-half rate.

The Organization asserts that Appendix "P" establishes procedures that must be followed for assigning Maintainers to work outside of their regular working hours.¹ According to the Organization, Appendix "P" required the Carrier to call the Claimant for the overtime work because he was first on the calling list of regularly assigned Maintainers on his section. The Organization asserts that the Claimant was available for service at 4:50 A.M. when the signal problem occurred. It asserts that the Carrier improperly assigned the work to an employee already on duty in response to an earlier trouble call. According to the Organization, the Claimant was "more available" than the junior employee who was occupied with another problem for two hours after the trouble arose.

The Carrier, on the other hand, asserts that it properly used a Maintainer who was already on duty in response to a trouble call on his section, to handle a second trouble call within the section, even though he may be junior to another available employee on the call list. The Carrier explains that the circumstance arose because at 3:00 A.M. on July 4, 1992, when the junior Maintainer was first called for signal trouble at CP-437, the Claimant, who was the senior Maintainer on the call list, was ineligible for work under the provisions of the Hours of Service Act.

Although the Claimant was available for service at 4:50 A.M. when the second trouble at CP-GJ occurred, the Carrier elected not to dispatch the Claimant off the call

¹The following are the pertinent provisions of Appendix "P":

"6. The Signal Maintainer assigned to that position in the section involved will, if he has added his name in accordance with Item 5 above, be listed first on the calling list for his section. If more than one Signal Maintainer have (sic) the same responsibilities and territory, they will be listed in class seniority order.

* * *

8. Employees will be called from the appropriate list for work in the order in which their names appear on the list."

list. The Carrier instead determined that the junior Maintainer would be sent to the trouble at CP-GJ after he completed work on the initial trouble call at CP-437. The Carrier maintains that it properly utilized a Maintainer who was already on the property performing service under pay rather than call in a second employee. The Carrier asserts that it was not obligated to call out an extra employee when there was a sufficient force working on the property and available to handle the signal trouble.

After reviewing the record evidence, we have determined that the Organization's claim should be denied. Appendix "P" does not require the Carrier to dispatch employees off the call list when the Carrier has determined that there are sufficient employees working on the property to handle existing problems. At the time the junior employee was initially dispatched, the Claimant was ineligible for service. The Carrier was not required thereafter to relieve the junior employee when the Claimant subsequently became available under the Hours of Service Act. The Carrier's decision to delay the repairs at CP-GJ rather than call the Claimant off the trouble list was a fair exercise of its managerial prerogatives.

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 15th day of November, 2000.