

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35312
Docket No. SG-31794
01-3-94-3-63**

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

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(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 B. E. Taylor for payment of three hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Appendix ‘P,’ when it failed to call the Claimant for overtime service on June 12, 1992, and instead used another employee listed behind the Claimant on the pertinent call list. Carrier’s File No. SG-554. General Chairman’s File No. RM2419-213-293. BRS File Case No. 9242-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 on June 12, 1992, when it failed to call the Claimant to repair a track circuit that went out west of C.P. 123 on the Boston Line on the Albany Division. The Organization

asks that the Claimant be made whole for the loss of the work opportunity and seeks three hours pay at the time and one-half rate. According to the Organization, Appendix "P" requires that a regularly assigned Maintainer shall be first on the call list for overtime work on his territory. The Organization asserts that because the Claimant was the Signal Maintainer assigned to the affected section, the Carrier was obligated to call him ahead of junior employees for any signal trouble on the section.

The Carrier, on the other hand, states that the malfunctioning track circuit constituted an urgent situation requiring the Carrier's immediate attention. It asserts that prior Awards of this Division allow that a Carrier must be granted latitude to act as quickly as possible to correct a problem.

After reviewing the record evidence, we conclude that the Carrier violated Appendix "P" when it bypassed the Claimant and called an employee who was behind the Claimant on the call list. There is no evidence that calling the Claimant would have delayed the Carrier's response to the trouble.

We also conclude that the appropriate remedy under these unique facts and circumstances shall be to award the Claimant three hours at the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

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 24th day of January, 2001.