

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 35551
Docket No. SG-35062
01-3-98-3-818

The Third Division consisted of the regular members and in addition Referee Roy J. Carvatta when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corporation (NRPC-N):

Claim on behalf of R.A. St. Laurent for payment of 21 hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly the Overtime Call List Agreement, when it failed to call the Claimant for a cut-over on his section on February 4 and February 5, 1997. Carrier’s File No. NEC-BRS-(N)-SD-765. BRS File Case No. 10832-NRPC(N).”

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.

The Carrier raised the issue of time limits being met. Due to conflicting assertions, none of which have been proved, we are unable to sustain the Carrier's argument and will consider the claim as presented.

The claim was made for R. A. St. Laurent for 21 hours pay at the overtime rate due to the Carrier's failure to call him for cut-over work on his Section on February 4 and 5, 1997.

The Claimant held a regular assignment as the Maintainer at Attleboro, Massachusetts, with hours of 6:00 A.M. until 2:30 P.M., Monday through Friday.

It is undisputed that on the claim dates the Claimant actually worked nine and one-half hours for which he was properly paid eight hours at the straight time rate as well as five and one-half hours at the overtime rate on February 4, 1997, and actually worked ten hours and was paid eight hours at the straight time rate and five and one-half hours at the overtime rate on February 5, 1997.

Because the Claimant would not be available for the claimed overtime under the Hours of Service Act on the dates claimed, this claim must be denied.

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 July, 2001.