

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 35552
Docket No. SG-35248
01-3-99-3-116

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-S):

Claim on behalf of F.T.Wszolek for payment of 8 hours at the time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Appendix “F” and Rule 18(h), when it used a junior employee for overtime at F-Tower Interlocking, Long Island City, New York, on September 15, 1997. Carrier’s File No. NEC-BRS (S) SD-775. General Chairman’s File No. RM3155-102-0498. BRS File Case No. 10864-NRPC(S).”

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.

At the time of the dispute, the Claimant was assigned to the position of Electronic Technician, with headquarters at Nassau Tower in Princeton, New Jersey. The

Organization contends that the Carrier violated Rule 18(h) and Appendix F when it used a junior employee to perform work at F - Tower Interlocking at 12:30 A.M. on September 15, 1997. The Claimant was listed No. 2 and the employee the Carrier called was listed No. 14 on the 1996 roster.

The Carrier submits that the Claimant's name was not included on the Call List and he was ineligible to be called for an overtime assignment. The Carrier contends the Organization's claim is procedurally defective and should be dismissed due to the Organization's time limit violation in progressing this case to the Board.

There are conflicting statements as to whether or not the Organization met time limits. Inasmuch as there was no conclusive proof of time limit failure we will consider the merits.

In the progression of this claim on the property, Director-Labor Relations R. F. Palmer, writing to General Chairman R. E. McKenzie under date of November 18, 1998, stated in pertinent part that the Organization "... provided no evidence whatsoever that claimant was eligible to be called for overtime or that his name was even on the overtime call list on September 15, 1997."

Because the Organization failed to successfully refute this assertion on the property, we must conclude that the Organization failed to meet its burden of proof. Accordingly, the instant 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.