

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 35592
Docket No. SG-34756
01-3-98-3-484**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Railroad Signalmen
(Long Island Rail Road Company

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Long Island Rail Road:

Claim on behalf of the employees assigned to Gang No. 39 for payment of an amount equal to the overtime earned by employees assigned to Gang No. 24 during job numbers 02102, 02072 and 5801, account Carrier violated the current Signalman's Agreement, particularly Rule 40(g), when it used the maintenance gang to perform construction work. Carrier's File No. SG-12-97. BRS File Case No. 10710-LI.”

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 claim filed on May 7, 1997 protests the Carrier's assignment of Gang No. 24, regularly assigned to troubleshooting and repair work, to install electronic and communication equipment for three noted projects, rather than Gang No. 39 in which the

Claimants are Technician Installers who regularly perform such installation work, as a violation of Rule 40(g), which states as follows:

“RULE 40 - OVERTIME

(g) When it becomes necessary to assign an employee to an overtime assignment, such employee shall be selected based on the following considerations:

- (1) Incumbent of the position for which the overtime is required.
- (2) Senior qualified available employee working in the class of overtime assignment as set out in Rule 12 at the section, subdivision, or gang. In the event no such employee is available to cover the overtime assignment, employees in an adjacent section, subdivision, or gang will be considered on the same basis.”

The Organization argues that the Claimants, as Installer Technicians, are incumbents to the installation work on a construction project, rather than Gang No. 24, who are Electronic Technicians that normally perform maintenance work. It also asserts that while both gangs involve the same class of Technicians, they involve different sections that normally perform different type of work. Its claim alleges a manipulation of job assignments involving known overtime by the Carrier and does not limit its relief to job assignments referenced therein. The Organization points out that the Carrier's position herein conflicts with its denials in claims involving bumping rights where the Carrier states that each title is considered separate and not qualified to do each other's work.

The Carrier initially contends that the claim is procedurally defective because it fails to specify the dates of the alleged violations or the amounts of overtime being claimed, and notes that the General Chairman stated at the conference that he was unaware of what, if any, overtime was involved. It next argues that the Claimants and the members of Gang 24 are all part of the Technician class, occupying the same roster with the same pay rate, and may perform all duties associated with that position. The Carrier asserted that both were maintenance gangs within the same maintenance group, and although it was normal for Gang 24 to do smaller jobs than Gang 39, either gang was able to do both as supported by past practice. The Carrier contends that there is no contractual restriction on such work assignment.

A careful review of the record convinces the Board that the Organization failed to sustain its burden of proving a violation of Rule 40(g) in this case. Initially we note that the claim before the Board limits relief being sought to three numbered job assignments, the same three cited as examples in the Organization's initial claim. Thus, we find that it meets the specificity requirement because the Carrier is able to determine the identity of the Claimants by noting who worked in Gang 39 on the dates the specific job numbers were performed.

However, the Organization pointed to nothing in the Agreement that does not permit this work assignment. Both gang members fall within the Communications Technician class, whose duties and qualifications are listed within Rule 25. There is nothing therein distinguishing Electronic Technicians from Installer Technicians. While there may well be differences between the qualifications of the two types of Technicians, and Gang 39 normally works in groups while Gang 24 members generally work alone, the Organization failed to establish that the members of Gang 24 were not qualified to perform the installations in issue, or that it was the type of work specifically reserved to Installer Technicians as a separate section thereby limiting the Carrier's right to deploy its work force as it bests sees fit. Absent such proof, the Board is unable to find a violation of the overtime provision of the Agreement in these job assignments.

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.