

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36161
Docket No. SG-35787
02-3-99-3-777**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Union Pacific Railroad Company

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Signalmen on the Union Pacific Railroad Co. (former Southern Pacific):

Claim on behalf of E. J. Stanley for payment of Signalmen's wages and for assignment of a Signalmen's date effective April 20, 1998, account Carrier violated the current Signalmen's Agreement, particularly Rules 42 and 50, when it failed to assign the Claimant to vacancy bulletin number esi00059. Carrier File No. 1157519. General Chairman's File No. SWGC-1896. BRS File Case No. 11028-SP"

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 Claimant, a Signalman, was the sole bidder on a position as a Signal Maintainer at Houston, as advertised in Bulletin No. esi00059. Prior to the position being filled, the advertisement for the position was canceled.

The claim seeks pay and classification as Signal Maintainer for the Claimant. Given that the position was not filled, there is no basis for the claim, because the opportunity for the Claimant's promotion was withdrawn.

Thus, the Board need not review questions as to whether the Claimant was qualified and/or should have been awarded the position even without full pre-existing qualification. Whatever the findings on these questions, the fact remains that there was no position to be filled.

AWARD

Claim dismissed.

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 20th day of August 2002.