

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 36222  
Docket No. SG-35706  
02-3-99-3-679

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  
(Burlington Northern Santa Fe Railway)

**STATEMENT OF CLAIM:**

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Atchison, Topeka & Santa Fe Railway (ATSF):

Claim on behalf of J. L. Bright and D. S. Ross for payment of twelve hours each at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 12 (c), and Article 2, Section 2A, of the UPSP Implementing Agreement 1, when on Saturday, November 8, 1997, it used two Signalmen from the Lafayette Signal Gang to perform work on the Claimants' prior rights seniority district, depriving the Claimants of the opportunity to perform this work. Carrier File No. SIB-98-04-07AA. General Chairman's File No. BRS 985512. BRS File Case No. 11061-ATSF.”

**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 Claimants were assigned to a signal gang with headquarters at Seale, Texas. During the week of November 3-7, 1997, the gang was working in New Iberia, Louisiana. There was anticipated need for overtime work on Saturday, November 8. According to the Carrier, such work was offered to the Claimants, who declined it,

stating a preference to go home for the weekend. There is no specific contrary evidence to this information.

On Saturday, November 8, another need for overtime work arose, this time for repair of damage to equipment in an accident. The claim here under review concerns the Carrier's failure to call the Claimants for this work.

The Board finds that the Carrier reasonably concluded that the Claimants were unavailable, given their preference to return home for the weekend. This is sufficient to determine the claim is without merit.

On this basis, the Board has no need to comment on the application of Rule 12(c) and/or alleged "prior rights" to the particular work here involved.

**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 September 2002.**