

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 36767
Docket No. MW-36899
03-3-01-3-463

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Burlington Northern Santa Fe Railway Company
((former Burlington Northern Railroad Company)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Burlington Northern Santa Fe Railroad Co. (former Burlington Northern Railroad):

Claim on behalf of J. J. Rutten for 2.7 hours at the time and one-half rate. Account Carrier violated the current Signalmen's Agreement, particularly the Scope Rule, Rules 1 and 21, when on July 26, 2000 Carrier used SOC Technicians to inspect and test signal equipment located at MP 221.3 in Lake Park, MN. Carrier's action deprived the Claimant of the opportunity to perform this work. Carrier's File No. 34 00 0026 General Chairman's File No. TC-22-2000. BRS File Case No. 11755-BN.”

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 incident that gave rise to this case, Claimant J. J. Rutten was employed as a Signal Maintainer on a territory that included Lake Park, Minnesota, Mile Post 221.3.

On July 26, 2000, there was a derailment at Frazee, Minnesota, Mile Post 203.1. Following the derailment, a Signal Operation Center Technician in Fort Worth, Texas, remotely accessed the hotbox detector at Frazee and the hotbox detector at Lake Park, Mile Post 221.3. He did so to obtain information concerning bearing temperature and alarm status when the derailed train passed those points.

On July 30, 2000, the Organization filed a claim on behalf of the Claimant, requesting 2.7 hours at the time and one-half rate of pay alleging that the Signal Operation Center Technician had accessed the hotbox detector at Lake Park to see if it was working properly, a violation of the Scope Rule governing work assigned to Signal Maintainers.

The Board reviewed the record, studied the language of the cited Rules, and considered the arguments presented by each party. As a result of those deliberations, the Board has concluded that the Signal Operation Center Technician who accessed the hotbox detector at Lake Park did not violate the Signal Maintainer's Scope Rule. He merely retrieved information concerning a train that had derailed. He did not test or inspect the detector. The Organization has not demonstrated that retrieval of information from the detector is work belonging exclusively to Signal Maintainers.

AWARD

Claim denied.

Form 1
Page 3

Award No. 36767
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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 29th day of December 2003.