

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37709
Docket No. SG-37562
06-3-02-3-652**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Kansas City Southern Railway Company**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Kansas City Southern Railroad (KSC):

Claim on behalf of T. D. Bengé, Jr., D. J. Hamilton, J. C. Timmons, M. S. May, W. C. Shepard, D. J. Horner, T. L. Parker, T. N. McBroom, T. A. Terry, J. Rosine, R. Dickey, G. L. Peace, M. R. Allen, J. W. Smith, Jr., W. C. Bickham, Jr., R. H. Thornton, S. L. Blunt, M. L. Kelley and K. P. Simmons, for a revised seniority roster with the Claimants listed with a Signalman's date of April 9, 2001, in the same relative ranking order as their Assistant Signalman date, account Carrier violated the current Signalmen's Agreement, particularly Rule 31, when it promoted three Assistant Signalmen who were junior to the Claimants and denied the Claimants promotion to a Signalman's position. Carrier's File No. K06015547. General Chairman's File No. 01-094-KCS-185. BRS File Case No. 12255-KCS.”

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 merits of the instant case depend upon the same record, facts and basic issues as those discussed in Third Division Award 37708. As stated in that Award, the Organization presents an issue instigated by the Carrier's sharp practice, but without proper regard to the long-accepted Board precedent that it will not consider issues separated into different claims when the issues are substantially the same grievance (Third Division Award 20714). This claim cites all of the Rules, facts, and Claimants disputed in Award 37708, including Rule 31. The Organization's claim that the Carrier violated the current Signalmen's Agreement duplicates the initial claim presented in Award 37708. Therefore, this claim must be dismissed.

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 30th day of January 2006.