

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37867
Docket No. SG-38048
06-3-03-3-461

The Third Division consisted of the regular members and in addition Referee Robert Richter when award was rendered.

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

STATEMENT OF CLAIM:

- "1. Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Union Pacific (UP).
2. Claim on behalf of J. Mojaro, for 7 hours and 30 minutes at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 13, when on July 23, 24 and 29, 2002, it allowed junior employees from Gang 8256 to work following a tie gang instead of the Claimant who was senior. This is a recurring and continuous claim. Carrier's File No. 1339797. General Chairman's File No. W-13-193. BRS File Case No. 12713-UP."

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 case involves Signal Construction Gang No. 8256 that was headquartered in Los Angeles, California. In July 2002, Gang No. 8256 split into two work groups in order to follow a Maintenance-of-Way Tie Gang. One group was supervised by the Foreman and the other by the Claimant who was an Assistant Foreman on the gang. The two work locations were approximately 40 miles apart, even though the work order only specified the locations to be 14 miles apart. Because the gang was working on two separate projects on July 23, 24 and 29, 2002, the Organization claimed that the portion of the gang supervised by the Foreman performed overtime service and the Claimant's group did not. However, the Claimant did perform overtime service with his portion of the gang on July 24 and 29, 2002. He received four and one-half hours of overtime on both July 24 and 29. On September 19, 2002 the Organization filed a time claim for the alleged violation of Rule 13. The claim alleged that the Claimant, as a member of Signal Construction Gang No. 8246 was entitled to compensation for overtime worked by junior employees on Gang No. 8256 on July 23, 24, and 29, 2002. However, the Organization failed to state who these junior employees were.

The Organization filed this claim as a violation of Rule 13, the pertinent portion of which reads as follows:

“Where gang men are required to work overtime, the senior man in a class in the gang will be given preference to such overtime work.”

The Claimant was working as an Assistant Foreman. The Organization failed to name a junior Assistant Foreman who worked on the days claimed. Also, the overtime work performed by the Tie Gang was a continuation of the work performed all day.

The Organization failed to prove that the Agreement was violated.

AWARD

Claim denied.

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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 1st day of August 2006.