

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37897
Docket No. SG-36830
06-3-01-3-354

The Third Division consisted of the regular members and in addition Referee James E. Conway 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 Railroad Signalmen on the Union Pacific Railroad Company:

Claim on behalf of D. M. Campbell for payment of 4 hours and 30 minutes at the time and one-half rate. Account Carrier violated the current Signalmen's Agreement, particularly Rules 13, 15 and 16 when on April 23, 2000, Carrier allowed a junior employee to respond to a trouble call at Mile Post 14.47 on the Harvard Subdivision. This action deprived the Claimant of the opportunity to perform this work. Carrier's File No. 1234315. General Chairman's File No. N13 15-079. BRS File Case No. 11630-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.

In this claim the Organization takes exception to the Carrier's action in using a Signal Maintainer from another territory in connection with a trouble call when the regularly assigned Signal Maintainer was not available.

The undisputed facts are these: On April 23, 2000, in response to an activation failure at a highway grade crossing, the Carrier called out Signal Maintainer Scott from an adjacent territory to make the repair when the Claimant, assigned to the same adjacent territory, had checked out and was unavailable. Scott was junior to the Claimant.

Among other arguments, the Organization asserts that because both the Claimant and Signal Maintainer Scott were assigned to the same territory, and the Claimant was senior to Scott and available to take the call, he was contractually entitled to the overtime work opportunity.

The Carrier stresses that in its appeal letters, the Organization relies solely on Rule 13. It maintains that the dispute is not governed by any of the Rules cited, and particularly by Rule 13. Because no Signal Maintainers on the territory where the trouble developed were available, Rule 13 is inapplicable. That Rule only addresses situations in which members of the same gang are required to work overtime. In such cases, the senior employee must be given preference. Faced with trouble calls in situations where the employees assigned to the territory are not available, the Carrier is under no obligation to seek out the most senior available Signal Maintainer. Rather, it may call any available Signal Maintainer without regard to seniority. Further, a review of the Claimant's tie-up history reveals that he was not available on the date of the call in any event.

The Board concludes that the Carrier correctly applied the Agreement to the facts. Even assuming that the Claimant was available to be called for work off of his assigned territory on April 23, 2000 - an assumption which does not appear to be warranted - no Rule support has been offered for the proposition that he had superior rights to be called ahead of any other Signal Maintainer. As stated in the Carrier's initial response, and as affirmed by the substantial precedent supplied in

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support, Rule 13 is applicable “. . . to Signalmen in the same gang when only a portion of the gang may be selected to work overtime.”

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 22nd day of August 2006.