

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 38006  
Docket No. SG-37807  
06-3-03-3-170

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman 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 (UP):

Claim on behalf of N. J. Scarsons, for 10 hours at his overtime rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Rule 16, when it failed to call the Claimant as the next maintainer to be called from the call list for the territory at MP 10.2 (West Bridge Interlocker) on February 17, 2002, and called another employee, depriving the Claimant of the opportunity to perform this work.” Carrier's File No. 1311486. General Chairman's File No. S-16-261. BRS File Case No. 12480-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.

The issue in this case is identical to the issue presented in Third Division Award 38005 with one essential exception. In the instant claim, it is undisputed in the record that the Claimant was working during the time that he allegedly should have been called and was, therefore, unavailable to work the overtime at issue.

Accordingly, the instant claim is dismissed as moot.

**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 25th day of October 2006.