

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38037
Docket No. SG-37511
06-3-02-3-604

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 M. J. McNace, B. J. Ward and J. G. Jensma, for 12 hours at their applicable straight time rate of pay, account Carrier violated the current Signalmen's Agreement, particularly Rule 1, when it required signal maintenance forces to perform construction work that required an appreciable amount of their time and deprived the Claimants of the opportunity to perform this work on July 5, 2001, at CPA 148 East Marshalltown, Iowa. Carrier's File No. 1283661. General Chairman's File No. N1K-227. BRS File Case No. 12270-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.

As in other cases of this nature, the Organization bears the burden of persuasion regarding the reservation of the work at issue, or at least the unvarying practice of assigning that work to employees covered by the Agreement.

In this case, however, the Board finds no support for the Organization's initial premise that the work at issue should have been assigned to the Claimants rather than to signal maintenance forces. Nor is the exact nature of the work particularly clear on this record.

In light of the foregoing the claim is denied.

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 21st day of December 2006.