

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 38946
Docket No. SG-38745
08-3-NRAB-00003-050155
(05-3-155)

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(Northeast Illinois Regional Commuter Railroad
(Corporation (Metra)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Northeast Illinois Regional Commuter Railroad Corp:

Claim on behalf of E. G. Saylor, Jr., for eight hours pay at his time and one-half rate of pay and eight hours at his double-time rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15, when it used a junior employee instead of the Claimant for an overtime assignment on June 23 and 24, 2003, at MP 17 on the Metra Electric District and denied the Claimant the opportunity to perform this work. Carrier’s File No. 11-28-419. General Chairman’s File No. 27-CL-03SAYLOR. BRS File Case No. 13172-NIRC.”

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 claim results from the Claimant's assertion that a junior employee worked overtime on June 23 and 24, 2003 instead of the Claimant.

First, with respect to June 24, 2003, the record shows that the Claimant reported at his regular shift start and then worked 12 hours, therefore making the claim for that date moot.

Second, the record shows that Bridge 17-I at Riverdale completely burned down over the night of June 22-23, 2003. As a result, the signal system was totally inoperative south of Kensington to University Park. Forces were called to initiate reconstruction of the system in order to restore commuter service.

The Carrier thus claims an emergency existed due to the destruction of the bridge and the effect on the signal system and it called in forces accordingly to repair the system so that commuter service could be restored. That assertion has not been refuted by the Organization and is substantiated by the record. The Carrier has substantial latitude in dealing with emergencies. See Third Division Award 26677 and Awards cited therein ("The Board has held that in an emergency Carrier may take whatever action it deems appropriate to cope with its problems . . .").

In the record, there was some question as to whether a junior employee acted in a fashion that could be interpreted as assigning overtime. Assigning overtime is not the function of the employees - that is a function of management. But, in any event, that dispute is not relevant because this case is decided on the finding that an emergency existed and the Carrier acted within the scope of its latitude for dealing with such situations.

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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 29th day of February 2008.