

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 39287
Docket No. SG-39213
08-3-NRAB-00003-050679
(05-3-679)

The Third Division consisted of the regular members and in addition Referee Joyce M. Klein 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:

Claim on behalf of T. K. Jameson and S. M. Peterson, for additional half-time pay for work performed on their increased territories beginning on October 18, 2004, and continuing until this dispute is resolved, account Carrier violated the current Signalmen’s Agreement, particularly Rule 21(a) (as retained in the January 1, 2000 Implementing Agreement) and responsibilities that were not part of the Claimant’s designated territories as of January 31, 2000, and failed to compensate them the additional half-time pay for working outside of their designated territories. Carrier’s File No. 1412607. General Chairman’s File No. N 56 506. BRS File Case No. 13353-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 Claimants are assigned to a joint Signal Maintainer territory on the Adams Subdivision. On October 18, 2004, the Carrier changed the Claimants' territorial limits from the territories designated in the January 31, 2000 Implementing Agreement. Claimant Jameson's designated territory was changed from Mile Post 230 through 189 to Mile Post 200.6 through 250. Claimant Peterson's designated territory was changed from Mile Post 275 through 230 to Mile Post 298.4 through 250.

The Organization argues that because the Claimants have not left their positions, they have not forfeited their rights under the January 31, 2000 Implementing Agreement, and thus are entitled to compensation under the provisions of Rule 21(a) which was retained in the Implementing Agreement.

"Work Not Covered by Assignment: A fixed headquartered signal maintainer required to perform work not covered by his assignment, as shown on the characteristic notice (See Rule 39) will be allowed additional compensation on basis of one-half regular hourly rate for time worked during his assigned hours. For time worked outside of assigned hours compensation will be allowed under Rule 14."

The Carrier asserts that the applicable Rule is Rule 32, Section 5(c) which adopts Rule 21(a) with the deletion of the words "as shown on the characteristics notice." The Carrier argues that this modification limits an incumbent Signal Maintainer's rights to additional half-time when working off their assigned territory, but eliminated the requirement that the Carrier post characteristic notices. The Carrier argues that Rules permitting modification of territories and working conditions continue to apply absent proof that these Rules have been eliminated.

The Organization contends that this claim is based on the Carrier's shifting of the Claimants' territories and Rule 32 is not relevant. However, Rule 32, on its face, sets the terms for the retention of Rule 21(a) in the January 31, 2000 Implementing Agreement by deleting the phrase "as shown on the characteristics notice," thus permitting the Carrier to shift Claimants' territories provided that the Claimants continue to be entitled to additional half-pay for working off their assigned territories. The Organization failed to meet its burden of proving that the specific language of the Rules prohibits the Carrier from modifying the Claimants' territory in accordance with Rule 21(a). For this reason, the claim must be 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 July 2008.