

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 39494
Docket No. SG-38866
09-3-NRAB-00003-050301
(05-3-301)

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 Rail
(Corporation (Metra)

STATEMENT OF CLAIM:

“Claim on behalf of the Brotherhood of Railroad Signalmen on the Northeast Illinois Regional Commuter Rail Corp.:

Claim on behalf of J. W. Price, for 4 hours pay at the overtime rate for each day the violation occurred, March 18, 19, 20 and 26, 2003, account Carrier violated the current Signalman’s Agreement, particularly Rule 15, and Side Letter No. 10 (SET letter dated October 24, 1989) when Carrier allowed Testmen who were junior to the Claimant to perform overtime service of testing signal circuits in the area of B-12; as a result the Claimant lost a valuable work opportunity. Carrier’s File No. 11-28-410. General Chairman’s File No. 17-M-03 PRICE. BRS File Case No. 13049-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.

The Claimant, a Signal Electronic Technician (SET), is the same individual involved in Third Division Awards 39491 and 39492.

In this matter, the Claimant asserts an overtime entitlement to work performed on March 18, 19, 20 and 26, 2003. In Third Division Award 39491, the Board held:

“Side Letter No. 10 addresses the establishment of the SET position. However, Side Letter No. 10 does not obligate the Carrier to assign the Claimant the disputed overtime work merely because he held an SET position. On the contrary, Side Letter No. 10 specifically states that “[t]his rule shall not be construed as prohibiting Signal Maintainers or other qualified Signalmen from making test, inspections and repairs as necessary.” [Emphasis added]. The Claimant gains no assignment rights from Side Letter 10 for the disputed work.

Rule 15 also does not help the Claimant’s asserted entitlement to the work. In pertinent part, Rule 15 states that “[w]hen overtime is required of a part of a group of employees who customarily work together, the senior qualified available employees of the class involved shall have preference to such overtime if they so desire.” In its July 3, 2003 letter at Note 2, the Carrier asserts that the “. . . [C]laimant is not a member of a group of employees who customarily work together.” That assertion was not refuted on the property. Rule 15 therefore does not give the Claimant assignment rights for the disputed overtime work.

Throughout, the Carrier asserted that it deemed the workforce selected was sufficient and qualified to perform the work. The

Organization failed to prove that determination violated any specific Rule of the Agreement. But in order to prevail, that is what the Organization must prove. The claim must therefore be denied.”

See also, Third Division Award 39492. Those reasons are equally applicable to this case.

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 2nd day of February 2009.