

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40627
Docket No. SG-39061
10-3-NRAB-00003-050499
(05-3-499)**

The Third Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corp.:

Claim on behalf of J. A. Irrera, for four hours at his time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Appendix B-4, when it failed to use the call out list and instead used a Signal Inspector to perform Signal Maintainer’s work on March 29, 2004, for a switch failure at North Penn and denied the Claimant the opportunity to perform this work. Carrier compounded this violation by violating the time limit provisions of Rule 56 when it refused to accept the Organization’s appeal. Carrier’s File No. NEC-BRS(S)-SD-1043. General Chairman’s File No. JY32101092-18049. BRS File Case No. 13323-NRPC(S).”

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.

There is significant disagreement in this record regarding the proper actions to be taken when, as here, signal failures are not promptly corrected. The facts are not disputed. Switch 87 at North Penn Interlocking failed at approximately 11:54 P.M. on March 29, 2004. The Philadelphia trouble truck attended to the failure, but the Signal Maintainer could not identify the cause or correct the problem. Three hours into the switch failure without correction, the Trouble Desk Assistant Foreman called out Signal Inspector Coffin who resolved the problem.

The Organization raised a procedural issue with Rule 56 and a merits issue with an alleged Carrier violation of Appendix B-4. The Board reviewed the procedural issue and is not persuaded by the record. As for the merits, the argument raised on the property is that the Claimant was first out on the call list and was not called. Further, Appendix B-4 requires the Carrier, when trouble such as the failed switch occurs, to call the Claimant, because he was the Section Maintainer for this territory with such rights. Finally, the Organization argues that this very issue was discussed with the Division Engineer at Penn Coach Yard, wherein: "He personally gave us his word that if the situation arises and the trouble truck maintainer is in need of assistance the section maintainer along with the section inspector will be called out on their regular assigned territory." The Organization maintains that the Claimant was not called in violation of the Agreement.

The Carrier denied any violation pointing to the fact that it dispatched the trouble truck to the switch failure and Signal Maintainers worked, but could not resolve the problem. The Carrier contends that it did not violate Appendix B-4, because it properly called out the on-duty Signal Maintainer. When qualified Signal Maintainers fail to resolve a problem or even identify the cause within three hours, it is not inappropriate to call out a Signal Inspector to inspect, identify, and arrange repairs. The Carrier contends that it is not a violation under these conditions to proceed as it did.

The Board reviewed the facts and record at bar. Appendix B-4 states that, "Employees will be called from the appropriate list for work in the order in which their names appear on the list." There is no dispute that when the failure occurred, at 11:54 P.M. on March 29, 2004, the proper employees were called. The record, although not fully clear, indicates that more than one Signal Maintainer inspected the switch. In either event, the next employee on the call list was the Claimant, who was not called.

On the merits, the Organization's claim rests upon the presumption that the Carrier should have continued to call off the list until the problem was resolved. It presumes that if two qualified Signal Maintainers could not solve the problem, or even identify the cause of the signal failure within three hours, the next step under the Agreement was to keep calling out Signal Maintainers for the work.

The Board does not agree. The Carrier did not violate the Agreement when, as here, it made the appropriate call out under Appendix B-4. Following the failure to obtain a solution and to expedite the correction, the Carrier properly called out a Signal Inspector, who, as indicated in the on-property correspondence, had "additional expertise . . . in order to minimize delays to the traveling public."

The Board is aware that the Carrier did not refute the Organization's assertion that future failures of the trouble truck to correct problems would be resolved by assignment of both a Section Maintainer and a Signal Inspector. As such, it stands as fact. However, while a personal agreement was entered into, there is no contractual Agreement before the Board consistent with the managerial agreement to give power to the Board to consider the Carrier's actions as an Agreement violation. The Board finds no signatory modification.

Accordingly, we find that the Carrier's actions complied with the Agreement and the circumstances at bar. The Carrier's measures to remedy the signal failure of three hours duration without qualified Signal Maintainers identifying the problem are not found to violate Appendix B-4 under these instant circumstances where a Signal Inspector was called, rather than the Claimant. The claim is denied.

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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 27th day of August 2010.