

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 41779  
Docket No. SG-41872  
13-3-NRAB-00003-120178

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(  
(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 Northern District Signal Employees, for \$0.65 per hour on behalf of any incumbent holding the positions which Carrier advertised incorrectly in violation of Agreement Rule 22. Carrier should also be required to issue a correction notice for those advertisements stating, ‘Plus \$0.65 per hour incentive pay for all hours worked.’ Carrier’s File No. BRS-SD-1143. BRS File Case No. 14608-NRPC(N).”

**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.

By Advertisements dated June 3, 2010, the Carrier established one Signal Foreman, and two Maintainer positions to support a Track Laying System (TLS) Gang. By Advertisement dated July 29, 2010, the Carrier posted two Signal Maintainer positions to support the same TLS Gang. Each of the advertised positions had work hours between 7:00 A.M. and 3:30 P.M. with Saturday/Sunday rest days. They were each posted at the appropriate hourly rate of pay for the position, but with no added incentive pay. The claim requests a reposting of the positions with the incentive pay included, and seeks an additional \$0.65 per hour pay for these positions for the duration of the assignments.

The pertinent portions of Rule 22, relied upon by the parties, appear below.

**“RULE 22 - STARTING TIME HOURS**

- (b) The starting time of the work period of employees, where one shift is worked, and the first shift where two or more shifts are worked, shall be established between 6 AM and 8 AM. The tour of duty of regular assignments shall not begin or end between 12:01 AM and 6:00 AM. (C&S Gangs may be required to start between 5 AM and 8 AM from May 1 through September 30).

\* \* \*

- (d) Starting times other than those set forth in paragraph (b) of this Rule may be established for C&S Employees/Gangs working in or in connection with the following gangs:

1. C&S Construction/Rehabilitation Gangs . . .

5. Track Laying System Gangs . . .

\* \* \*

Employees working in or in connection with any of the Gangs designated in paragraph (d) shall be paid an incentive allowance of 65 cents per hour for all hours worked. The incentive allowance shall be considered separate and apart from the basic rate of pay and shall not be subject to cost-of-living or general wage increases.

C&S Employees holding positions in accordance with this paragraph will not be used to fill casual vacancies in other areas for the purpose of avoiding payments.

The Chief Engineer-C&S will notify the General Chairman prior to establishing any position covered by this paragraph.”

The facts of the case and arguments made by the parties, as well as the interpretative issue presented, are the same as that which was dealt with by the Board in Third Division Award 41778. The Board adopts the rationale set forth in that case for interpreting the incentive pay provision of Rule 22(d) to apply to all employees working in or in connection with the ten types of gangs designated therein who have had their starting time altered under Rule 22(d) from those established under Rule 22(b) and not to apply to any employee working in connection with such gangs irrespective of whether their starting time falls outside of the parameters of Rule 22(b) as urged by the Organization.

For all of the reasons set forth in Award 41778, the Board concludes that the Organization failed to meet its burden of proving that Rule 22(d) supports the payment of a \$0.65 incentive bonus to the Claimants under the facts of this case. Accordingly, 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 25th day of November 2013.