

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 42238
Docket No. SG-42516
16-3-NRAB-00003-140144

The Third Division consisted of the regular members and in addition Referee Sidney Moreland 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 F. Burks, C. L. Jones, H. Martin, Jr., G. Thomas, and G. Wilson, III, for immediate recall from furloughed status and for R. P. Duran and J. S. Suttle, compensation at their respective overtime rates of pay for all hours that Carrier works employees from Seniority Zones 1, 2, 3, or 5 and/or District Seniority Rosters 4501, 4502, 4503, 4504, 4505, 4506, 4507, 4508, 4509, 4510, 4511, 4514, and 4515 on Zone 4 or Seniority District 4512, beginning on October 13, 2012, and continuing until this dispute is resolved, account Carrier violated the current Signalmen’s Agreement, particularly Rules 26 and 65, when it worked a Zone Gang off territory while employees were furloughed. Carrier’s File No. 1581646. General Chairman’s File No. UPGCW-26-0116. BRS File Case No. 14970-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.

At the time this dispute arose, the seven Claimants were Class 3, Zone 4 Signal Helpers. On October 13, 2013, the Carrier permitted Zone 3 (Gang 5793) employees to perform work on a signal project in Zone 4.

The Organization asserts that the Carrier violated the Parties' Agreement, namely Rule 26, by allowing Zone 3 employees to work in Zone 4 when there were Zone 4 (Class 3 Signal Helper) employees furloughed. The Organization contends that Class 3 Helpers, such as the Claimants, are entitled to the furlough protection granted in Rule 26.

The Carrier asserts that Rule 26 was written to apply to Class 1 and Class 2 employees only, as specifically outlined in the Parties May 27, 2010 Positive Train Control Agreement, and does not include furlough protection for Class 3 Signal Helpers like the Claimants in this matter. The Carrier points out that the Organization did not initially assert a Rule 26 violation, and in doing so now, has improperly amended its claim.

The Carrier further states that the Class 3 unskilled Laborer positions held by the Claimants are of a fixed and limited duration; have no seniority bidding rights; are not permitted to perform any Class 1 or Class 2 skilled work; have no Agreement right for promotion; and were never envisioned as being anything other than unskilled workers for performing general manual labor so as to free up Class 1 and Class 2 employees to perform signal work. Accordingly, the work that the Organization grieves is work that the Claimants (Class 3 Signal Helpers) would never have performed.

A review of the facts and the cited Agreement(s) Rules reveals that of the seven Claimants, only five were furloughed Zone 4 employees at the time the Zone 3 workers crossed over into Zone 4. The facts also demonstrate that the Carrier only allowed Class 1 and Class 2 workers into Zone 4 at times when there were no Class 1 and Class 2 workers furloughed. The five furloughed Claimants, all Class 3 Signal Helpers, were not qualified to perform the Class 1 and Class 2 work in question, whether furloughed or not. The Organization has not demonstrated that the Carrier violated the Class 3 Claimants' Agreement rights by furloughing them and

allowing Class 1 and Class 2 workers to work in their zone. For all of the foregoing reasons, the instant 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 29th day of January 2016.