

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

****Corrected****

Award No. 42241
Docket No. SG-42751
16-3-NRAB-00003-140446

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 C. C. Hitchcock, J. M. Lopez, L. D. Konkel, S. Dueitt, H. Evans, J. E. Rush, and B. W. Shurtleff, for nine hours each at their respective overtime rates of pay and eleven and one-half hours each at their respective double time rates of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 10, when it called the Claimants in for service at 4:30 PM on their rest day, May 5, 2013, subsequently held them on standby at the hotel until the next day at 4:00 PM, then refused to compensate them accordingly. Carrier’s File No. 1587475. General Chairman’s File No. S-10-1312. BRS File Case No. 15012-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.

On May 5, 2013, the Carrier instructed the seven Claimants to attend a Cutover Meeting (meeting) from 4:30 to 6:00 P.M. concerning a major cutover project they were to be involved in. The Claimants were working an “8&6” schedule, and their work was not scheduled to begin until May 7, 2013. The Claimants attended the meeting and were paid overtime for doing so. The Claimants began the cutover work on the evening of May 6, 2013 at 5:00 P.M., and were paid overtime for doing so. The Claimants worked their regular shift commencing at 4:00 P.M. on May 7, 2013 and were paid straight time.

The Organization contends that during the period of time between the Claimants attending the May 5, 2013 late afternoon meeting on their rest day and the time they commenced the May 6, 2013 cutover work, they were under the Carrier’s control and direction in “standby status” as a result of the Carrier instructing them to go to their hotel and rest until they were to relieve the day shift the following afternoon. The Organization asserts that this standby time frame is considered “service” or “work.” The Organization avers that the Claimants are, therefore, entitled to the pay being claimed, pursuant to Rule 10, which governs overtime work and the payment for said overtime work.

The Carrier refutes the Organization’s assertion that the Claimants were under the Carrier’s control during the above-mentioned time frame, asserting that (1) the Claimants were free to do as they wished during this period as long as they were rested and available for work the following day - just as any other work day; (2) they were never instructed to make themselves available; and (3) they were never placed into standby status. The Carrier further avers that the seven Claimants were handled identically as any other Rule 26 situation, wherein they were paid overtime for the time worked outside of their assigned schedule and were afforded meals and lodging. The Carrier also points out that the statements of the Carrier’s Manager (Burkhart) are in factual dispute with the Organization’s characterization of the meeting and whether or not the Claimants were placed on standby and, as such, the moving party (Organization) failed to satisfy its burden of proof.

The evidence shows that there is no factual dispute concerning the directives given the Claimants, who involuntarily on their day off, were ordered by the Carrier to attend a late afternoon cut over meeting preceding their new job, during which they learned that they would not be working the night shift that evening.

Instead, the Carrier sent the Claimants to a hotel advising them “. . . they need to be completely rested so they could work for 12 hours.” The Carrier’s directives compelled the Claimants to attend a meeting on Sunday, even though they were not needed for work until the following Monday afternoon. The Organization’s observation that the Carrier ordinarily requires employees to attend meetings discussing a new job, on the first day of the new job, is not only logical, but would have alleviated the need to compensate the Claimants for their time on standby.

The additional Carrier directives involving notice that they were not working that evening, advising them of their hotel accommodations then-required until their shift the following day, and the Manager’s statement that they “need to be completely rested,” collectively reflect that the Claimants were held for duty in line with their regular assignment and/or in standby service, and of value to the Carrier. Accordingly, the Claimants’ fair compensation is required. The Carrier shall compensate the Claimants for their anticipated 12-hour overtime shift on May 5, 2013, minus the three hours of overtime already received for that date (nine hours overtime each).

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of January 2016.