

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42448
Docket No. SG-42111
16-3-NRAB-00003-130016**

The Third Division consisted of the regular members and in addition Referee Roger K. MacDougall when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Northeast Illinois Regional Commuter Railroad
(Corporation (Metra)

STATEMENT OF CLAIM:

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

Claim on behalf of P. C. Cruz-Morales, for 22 hours at his respective overtime rate of pay account Carrier violated the current Signalmen’s Agreement, particularly Rule 5, Side Letter 13 dated May 16, 1999, and the Letter of Agreement dated April 15, 1994, regarding Rule 18, when, on June 25–26, 2011, it assigned another employee from a territory adjacent to the Claimant’s territory to perform work on the Claimant’s assigned territory and thereby caused him a lost work opportunity. Carrier’s File No. 11-21-806. General Chairman’s File No. 202-MW-11. BRS File Case No. 14811-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.

Signal Maintainers were needed to assist a track gang which was replacing and welding rail joints. Initially, the track gang was scheduled to work on two separate territories. As a result, Signal Maintainers from each territory were (properly) assigned to assist on their respective territories. Then, at some point, the plan changed. The new plan was to work on only one territory. It is common ground that the Track Department did not let the Signal Department know this change had occurred. It is also common ground that the originally assigned two Signal Maintainers performed the required work. However, as the work was now only on one territory, the Organization says that the work performed by Mr. Watson, from Signal Territory A-5, should have been done by the Claimant, who was the senior Maintainer on the Galewood Territory, upon which the work was actually performed.

The Organization says that the Carrier violated Rules 5, 18, and Side Letter No. 5 (formerly 13) dated May 16, 1999, when it permitted a junior Signal Maintainer from a different territory to perform overtime service on the Claimant's assigned territory. The Organization says the Agreement is clear that Signal Maintainers will have access to overtime on their assigned territories. It says that the record in the instant case is clear that all of the claimed work was performed on the Claimant's assigned territory and as such, the Claimant should have been offered the overtime opportunity.

There is no dispute between the Parties on the facts of the case. Nor is there a dispute over the proper application of Side Letter No. 5, which states, in relevant part:

"In connection with adoption of Wage, Rule, and Benefit Agreement today, the issue of the access maintainers have to overtime when other Signal Department employees are performing work on a maintainer's assigned territory or plant was discussed. In these discussions, it was recognized that, inasmuch as signal maintainers have primary responsibility for the maintenance of their assigned territory or plant, they should be utilized, to the extent possible, when work is to be performed on such assigned territory or plant."

The Carrier says that the change of plan was a last-minute thing. It says that the Track Department did not notify the Signal Department, and, thus, the proper Signal Maintainer was not assigned. Further, it says, Mr. Watson, who actually did the work, should have notified his supervisor, who then could have made the proper

re-assignment. Finally, it asserts that Mr. Watson did the work “voluntarily” as it reclaimed his pay for the time in question.

The Organization disagrees on most of these fronts. Firstly, it points out that this was not a “last minute” change. It says that in order for the Track Department to receive the necessary track time, it has to arrange, in writing, with the Dispatch group at least one to two days in advance of the work. This was a two day job. It says this gave ample opportunity for the Carrier to correspond between the Track and Signal groups. It says this is not the responsibility of a Signal Maintainer, but is up to the Carrier’s own departments to talk to each other to properly organize the work. Finally, it provided evidence that Mr. Watson had not had his wages reclaimed.

This Board acknowledges that a call from Mr. Watson to his supervisor may have avoided this issue. However, so, too, would proper communication between departments of the Carrier. On balance, this Board finds that the ultimate responsibility for this communication rests with the Carrier. They acknowledge that the work should have been given to the Claimant. As a result, he shall be compensated for missing out on this work opportunity.

AWARD

Claim sustained.

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 31st day of October 2016.