

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42916
Docket No. SG-42983
18-3-NRAB-00003-150180**

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

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of behalf of the General Committee of the Brotherhood that:

Claim on behalf of B.K. Sgaggero, for 16 hours at the applicable Independent Signal Maintainer’s overtime rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rules 28 and 14, when, on December 8-9, 2013, it assigned a Signal Inspector to perform emergency service on the Claimant’s territory, and thereby caused the Claimant a loss of work opportunity. Carrier’s File No. 2014-159677. General Chairman’s File No. 14-02-28. BRS File Case No. 15145-B&O.”

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.

The Organization filed the instant claim on behalf of the Claimant, alleging that the Carrier violated the current Signalmen's Agreement when it assigned a signal inspector to perform emergency service on the Claimant's territory on December 8-9, 2013, thereby causing the Claimant to lose a work opportunity. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the evidentiary record proves that the Carrier violated the Agreement when it allowed a signal inspector to perform overtime service that contractually is reserved to the signal maintainer class, because Rule 28 states that signal inspectors will not be called out to perform the work of regularly assigned maintainers, because the record proves that the work in question was signal maintainer's work and not signal inspector's work, and because the work in question should have been assigned to the Claimant as the senior available signal maintainer. The Carrier contends that the instant claim should be denied in its entirety because the Organization has failed to demonstrate that work reserved to signal maintainers was performed by a signal inspector, because the Organization has failed to meet its burden of proving that a rule violation occurred, because no rule has been cited that reserves any specific work or the work at issue to the signal maintainer's class, and because the Organization's arguments already have been rejected by the Board in a previous Award.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier violated the Agreement. The Organization did not demonstrate with any evidence that work reserved to the signalman maintainer was performed by a signal inspector. The Organization did not specify any work specific to the signal maintainer's classification that was performed by the inspector. The Organization did not even cite a rule that reserved any specific work to the signal maintainer's classification. Consequently, there was a failure on the part of the Organization to demonstrate that any rule violation occurred.

Since the Organization bears the burden of proof in cases of this kind and it has failed to meet that burden with any evidence, the Board has no choice but to deny the claim. Therefore, this 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 14th day of February 2018.