

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43276  
Docket No. SG-43234  
18-3-NRAB-00003-150468**

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

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Soo Line Railroad Company**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Canadian Pacific (formerly SOO Line):**

**Claim on behalf of T.L. Ferguson, for 10.67 hours at his overtime rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 21, when on May 26, 27, and June 2, 2014, it called another employee to work trouble calls on the Claimant’s regular assigned territory instead of the Claimant and thereby caused him a loss of work opportunity. Carrier’s File No. 09-00124-182. General Chairman’s File No. Ferguson Call Regular Assignee. BRS File Case No. 15159-SOO.”**

**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 parties' Agreement when it failed to call the Claimant for overtime trouble calls on his assigned territory on May 26, May 27, and June 2, 2014, and instead called an adjoining Signal Maintainer, thereby causing the Claimant a loss of overtime opportunity. The Carrier denied the claim.**

**The Organization contends that the instant claim should be sustained in its entirety because the Carrier violated Rule 21 when it failed to call the Claimant for the work in question, because the Claimant was available and at his point of call, because there is no support for the Carrier's position, and because the requested remedy is appropriate. The Carrier contends that the instant claim should be denied in its entirety because the Organization failed to meet its burden of proof, because the Claimant voluntarily took his Carrier-provided vehicle in for service due to unreported damage and required repairs prior to the "subject to call" events, because there is no support for the Organization's assertion that twelve days was too long for the needed repairs to the vehicle and others requested by the Claimant, and because the Claimant was not available and did not have the proper tools and equipment to be able to respond to the calls at issue.**

**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 met its burden of proof, in part, that the Carrier violated the Agreement when on May 26, 27, and June 2, 2014, it called another employee to work trouble calls on the Claimant's regular assigned territory instead of the Claimant and thereby caused the Claimant a loss of work opportunity. The record reveals that the Carrier failed to call the Claimant for the trouble calls on his assigned territory because the Claimant's company vehicle was being serviced and the Carrier did not provide him with a replacement vehicle. The record is clear that if the Carrier had provided the Claimant with a Carrier vehicle, he could have performed the work while his vehicle was being repaired.**

**The problem here is that there is no guarantee that the Claimant would have accepted the overtime on all of the dates in question. Consequently, the Board finds that the only way to make a fair ruling in this case is to order that the Claimant be awarded one-half of the 10.67 hours at his overtime rate that was requested in the**

**claim. There is simply no assurance that the Claimant would have worked all of the 10.67 overtime hours.**

**The claim is sustained in part and denied in part. The Claimant shall be awarded one-half of 10.67 hours at his overtime rate of pay to cover his damages caused by the Carrier's violation of the Agreement.**

**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 26th day of June 2018.**