

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44648  
Docket No. SG-45612  
22-3-NRAB-00003-190504**

**The Third Division consisted of the regular members and in addition Referee Andria S. Knapp when award was rendered.**

**(BROTHERHOOD OF RAILWAY SIGNALMEN  
PARTIES TO DISPUTE:  
NATIONAL RAILROAD PASSENGER  
CORPORATION (AMTRAK)**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the National Railroad Passenger Corporation (Amtrak).**

**Claim on behalf of C.E. Helinski, for 10.5 hours at his overtime rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Appendix B-4, when on March 18, 2018, Carrier utilized a junior employee, J. Creger, to perform overtime work at Merriman Road MP 15.60 that accrued to the Claimant, thereby causing him a loss of work opportunity. Carrier's File No. BRS-SD-1268. General Chairman's File No. AEGC-20181061. BRS File Case No. 16093-NRPC(S). NMB Code No. 172.”**

**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.**

This claim arose when a trespasser was struck by a train, necessitating emergency call-out work. The Claimant contends that he was not called about taking the overtime. According to the supervisor, he called the Claimant, who did not respond. The supervisor then went down the callout list as prescribed by the Agreement.

The record contains an irreconcilable dispute in relevant facts. It has been widely recognized that the Board is not in a position to resolve factual disputes, and such claims are appropriately dismissed. Accordingly, this claim is dismissed.

**AWARD**

Claim dismissed.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Third Division

Dated at Chicago, Illinois, this 15<sup>th</sup> day of December 2021.