

Form 8

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

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JAN - 5 1995

Award No. 30622
Docket No. SG-30776
94-3-92-3-588

G. L. HART

The Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Illinois Central Railroad

STATEMENT OF CLAIM:

"Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Railroad (IC):

Claim on behalf of D. J. Watson, for five (5) hours and twenty (20) minutes pay at the overtime rates of pay for June 14 & 15, 1991 and two (2) hours and forty (40) minutes pat at the overtime rate of pay for August 4, 1991, because the Carrier violated the current Signalmen's Agreement when it failed to call him for overtime service." Carrier File No. 135-194-1 Spl #59 and 61. BRS Case No. 8681.

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 waived right of appearance at hearing thereon.

On three occasions, June 14, June 15 and August 4, 1991, Carrier placed a phone call to Claimant's residence attempting to call him for overtime work. On each occasion when Claimant's answering machine responded, the Caller hung up without leaving a message and then contacted someone else for the assignment. The Organization has not disputed that the calls were made. Instead it argues that because Claimant utilized the answering machine to screen unwanted calls the Carrier should have left a message so that he could call back and accept the work. Carrier on the other hand states that earlier the Supervisor of Signals had advised that:

"Effective this date when a signal employee is called for overtime and the call is answered by an answering machine the next employee eligible for the overtime will be called. A message may, or may not, be left on the machine. It is my opinion that this will avoid some of the confusion that now exists."

The Organization is now asking the Board to change the rules and have the Carrier call and if the employee has an answering machine, leave a message and wait for some unspecified time to see if the call is returned.

The Board notes that while answering machines are commonplace today, and answering machines and voice mail are used throughout the industry by all employees and officers officially and unofficially, Carrier is not obligated to leave a message or place a second call when it is calling overtime unless the parties have negotiated such an understanding. No such understanding was in place at the time Claimant was called on June 14, 15 and August 4, 1991. In fact, while this claim was being progressed on the property, the Organization proposed a calling procedure which, if adopted, would eliminate claims such as this.

Accordingly, there is no basis to sustain the claim. However, before closing the Board would like to note that while Claimant's stated purpose for the answering machine was to screen unwanted calls, presumably from telephone solicitors, etc., such screening could also be utilized to avoid being contacted for overtime work when an employee, for a variety of reasons, would not want to be called out.

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.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of December 1994.