

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13482

Docket No. 13369

00-2-98-2-61

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

**(Brotherhood Railway Carmen Division
(Transportation Communications International Union**
PARTIES TO DISPUTE:(
**(CSX Transportation, Inc. (former Baltimore & Ohio
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. That the Carrier violated Rule 8 on March 28, 1997 whenever they disallowed Carman Hinkle and Dorsey overtime on Good Friday.**
- 2. That the Carrier be ordered to pay Carman B. S. Hinkle and R. K. Dorsey eight (8) hours at the overtime rate of pay which they would have received had they been contractually called.”**

FINDINGS:

The Second 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.

A claim was filed with the Mechanical Superintendent in Baltimore on May 24, 1997 on grounds that an Agreement violation occurred at the Car Shop in Cumberland, Maryland, on March 28, 1997. This date was the Good Friday holiday. The claim states that neither of the Claimants was called to work, as members of the Overtime Board because they do not possess a valid drivers' license.

The claim was denied by the Carrier on grounds that the work that needed to be performed in the yard on the holiday required the potential use of one of two non-licensed or three licensed vehicles.

Neither of the Claimants possessed a valid driver's license and both had signed a document on May 3, 1994 stating that they understood that they were not permitted to drive a CSX vehicle either on or off company property. Therefore, according to the Carrier, the Claimants were properly by-passed as members of the Overtime Board because they were not qualified to work on this date since they were not permitted to drive a licensed vehicle. Further, according to the Carrier, which is not denied in the record, these two Carmen do not work in the yard at all. They are only qualified to perform work in the shop.

Rule 8 - Distribution of Overtime, reads as follows:

*** * ***

"Employees will not be laid off during regular working hours to equalize overtime.

Record will be kept of overtime worked, with the purpose in view of distributing the overtime equally among the employees of each craft insofar as their qualifications will permit."

Obviously, in specific circumstances if employees on the Overtime Board are required to perform work on overtime that their qualifications do not permit them to do they need not be called in accordance with Rule 8.

This case represents a revisiting by the Board of the Carrier's driver's license requirement for Carmen working in Cumberland Yard. The Board recently ruled on this property and at this location that the Carrier cannot, as a general matter and

blanket requirement, require a driver's license for Yard Inspector positions because such requirement contractually violates Carmen protections and eligibility to bid on such positions under Agreement Rules 28, 138, 142 or 143. In that earlier case the Carrier had rebulletined Yard Inspector positions with a new driver's license requirement and the Organization filed a claim alleging that this was in violation of the Agreement. The Majority of the Board agreed. In that Award (Second Division Award 13381) the Board ruled inter alia that "... the Carrier [had] not presented sufficient evidence that its unilateral actions against a whole class of employees protected by contract, related to but a detail of the job, which may not even (or ever) be performed by any specific Car Inspector, are warranted ... (and that) ... logistical and managerial requirements by management ... must be weighed against the seniority and job classification protections of the collective bargaining unit members."

In spite of the Board's ruling in Second Division Award 13381, if an unlicensed Car Inspector would be required to drive a vehicle he would not be permitted to do so. It appears, from evidence in that case, that this would represent by far an idiosyncratic situation and that whatever inconvenience this might cause to management is more than off set by the Carmen's contractual rights, as a class, to bid on the Yard Inspector positions in the first place.

Any inconvenience to management in view of the above scenario is matched, in the instant case, by inconvenience to certain individual members of the collective bargaining unit because of the lack of qualifications, in the specific case, to exercise overtime rights as outlined under Rule 8.

The fact is that most workers today carry a driver's license, including members of the Carmen craft. But even if a Carman has the right to, and does successfully, bid on a Yard Inspector's position without holding a valid driver's license, he would not be allowed to drive a vehicle. Likewise, the Claimants involved in the instant case have no contractual right to be called from the overtime list, as the Carrier correctly argues, if there was a need for them to drive a vehicle in the yard while on overtime. As individuals, under Rule 8, the Claimants were contractually disqualified from working overtime in the yard under these circumstances and they were properly passed over for overtime by supervision on March 28, 1997.

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 Second Division**

Dated at Chicago, Illinois, this 11th day of January, 2000.