

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 14159
Docket No. 14003
16-2-NRAB-00002-140036**

The Second Division consisted of the regular members and in addition Referee Lamont E. Stallworth when award was rendered.

PARTIES TO DISPUTE: (**(Brotherhood Railway Carmen-Division of TCU/IAMAW
(BNSF Railway Company**

STATEMENT OF CLAIM:

- “1. That the Burlington Northern Santa Fe violated the terms of our Agreement dated February 1, 2006, in particular Rule 82, when Carman James Rohr, Sr. was denied the opportunity to work overtime assignments on the Havelock 601/604 switching crew on January 13, 24, 26, 31, February 3, 9, 16, 25, April 20 and 30, 2013, due to allegedly not being qualified.
2. That, accordingly, the Carrier be ordered to compensate the Claimant Carman James Rohr, Sr., sixty-two (62) hours pay at the pro-rata rate.”

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.

At the time of this dispute, Claimant James Rohr, Sr., was a Carman at the Carrier's Havelock Shop in Lincoln, Nebraska. The dispute involves his claim that he should have been called to work overtime on the 601/604 switching crew at the Havelock shop, for a total of 62 hours on the ten dates in January, February and April 2013, as specified in the Claim.

The Claim relies on Rule 82, which defines the qualifications of a Carman as follows:

“Any man who has served an apprenticeship or who has had 732 days (three (3) years) practical experience at Carmen's work (including as upgraded helper or upgraded apprentice), and who with the aid of tools with or without drawings can lay out, build or perform the work of his craft or occupation in a mechanical manner shall constitute a Carman.”

However, Rule 8(b) of the applicable Agreement states: “Overtime will be distributed to employees on each shift by establishment of an overtime call list on each shift in accordance with their qualifications. . .” Rule 8(b) thus governs when a Carman is eligible to be called for overtime work.

The record establishes that 601/604 switching assignments involve safety sensitive work for which any employee who does not regularly perform such work is not deemed qualified unless the employee has passed an annual qualification examination. The record further indicates that, although the Claimant had performed 601/604 switching assignments in the past, he did not regularly perform such work and had not completed an annual qualification examination for such work at the time of the assignments in January, February and April 2013 involved in this Claim. Claimant did not complete such an examination until May 23, 2013.

Applicable arbitral precedent makes clear that, as the moving or initiating parties in this dispute, the Claimant and the Organization bear the burden of proving that the Claimant was qualified under Rule 8(b) for the overtime assignments at issue. Such proof is lacking.

Accordingly, the Board cannot find that the Claimant was improperly denied overtime assignments to perform 601/604 switching work on the dates in question. Accordingly, the instant Claim must be denied.

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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 20th day of December 2016.