Form 1 **NATIONAL RAILROAD ADJUSTMENT BOARD**
SECOND DIVISION

Award No. 14165
Docket No. 14020
16-2-NRAB-00002-140057

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
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(The BNSF Railway Company

STATEMENT OF CLAIM:

"1. That the Burlington Northern Santa Fe violated the terms of the February 1, 2006 Agreement, specifically Rule 82, when Carman W. R. Rohr was denied the opportunity to work an overtime assignment on the Havelock 601 crew March 4, May 13 and April 21, 2011.

2. That accordingly, the Carrier be ordered to compensate the Claimant eighteen (18) hours at the time and one-half rate of pay."

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 W. R. (Bill) Rohr was a Carman at the Carrier's Havelock Shop in Lincoln, Nebraska. On the dates listed in the claim, March 4, April 21 and May 13, 2011, the Claimant sought to work overtime on the 601/604 switching crew at Havelock for a total of 18 hours. The Carrier, however, denied the Claimant those overtime assignments, on the ground that the Claimant was not qualified for the 601/604 switching work.

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."**

Rule 82 thus defines who may qualify as a Carman. It is not disputed that the Claimant was a Carman on the dates in question. The issue is whether the Claimant should have been assigned the 601/604 switching work on an overtime basis.

Rule 8(b) of the 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 addresses when an employee who qualifies as a Carman may be eligible for specific overtime work.

The record establishes that 601/604 switching assignments in Havelock Shop involve safety sensitive work for which a Carman who does not regularly perform such work is not deemed qualified unless the Carman has successfully completed comprehensive training on 601 and 604 switching. The record further establishes that the Claimant had not taken that training so as to be qualified for the 601/604 switching work on the dates of the overtime work at issue. Therefore, the Union is unable to meet its burden of proving that the Claimant was qualified for the overtime assignments and that the overtime consequently was wrongfully denied the Claimant.

The Organization, however, contends that the Carrier improperly denied the Claimant the opportunity to take the 601/604 training. According to the

Organization, beginning on March 14, 2011, the Claimant and later his union representative repeatedly asked the Havelock Shop Superintendent to enroll the Claimant in 601 and 604 training so that the Claimant would be qualified to work overtime on the 601/604 switching crew. The Organization contends that other Carmen who have requested 601/604 switching training have been enrolled in the training by the Carrier while the Claimant was not enrolled.

In the opinion of this Board, however, the Organization has not proven that the Claimant was improperly denied the overtime assignments in March – May 2011 because his requests for training were refused by the Carrier. To begin with, the Claimant evidently did not even request the 601 and 604 training until after the first date (March 4, 2011) when he was denied the 601/604 overtime work. In addition, the record indicates that the Carrier's training programs for 601 and 604 switching work take two to three weeks each, making it appear unlikely that the Claimant could have completed both courses before any of the dates listed in the claim, even if the Carrier had offered him the training shortly after his March 14, 2011 request.

Furthermore, the Carrier maintains that, because an employee requires such an extensive training program in order to be qualified to safely perform 601 and 604 switching work at the Havelock Shop, the Carrier normally reserves such training for personnel who are awarded permanent 601/604 jobs through the bulletining process. The Carrier states that it is unable to provide such training simply to qualify employees to perform the 601/604 switching work on an overtime basis.

In the opinion of the Board, the record does not establish that the maintenance of this policy by the Carrier is unreasonable, or that the Carrier has departed from the policy in the past to train other employees who, like the Claimant, sought to perform 601/604 switching work only on an overtime basis.

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

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.