

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13303

Docket No. 13106

98-2-96-2-8

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Chesapeake and
(Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc., (hereinafter referred to as 'Carrier') violated the controlling Shop Crafts Agreement specifically Rule 11 when the carrier assigned shop employee Carman Paul Barrett to work overtime on transportation yard at Columbus, Ohio, when members of the transportation yard overtime board were available, willing and qualified to perform that work.**
- 2. Accordingly, the carrier be ordered to additionally compensate carman J. A. Sanford, (hereinafter referred to as 'claimant') for eight (8) hours pay at the applicable overtime rate for said violation."**

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.

This is a claim in which the Organization seeks eight hours at the overtime rate. The Organization contends that the Carrier violated Rule 11, Section 10 of the parties' Agreement because the Carrier assigned a shop employee to fill an overtime vacancy in the Transportation Yard at Columbus, Ohio. Simply stated, the Organization notes that there are two separate overtime boards at the Carrier's Columbus Car Operation Facility. It contends that one board is used to call employees for yard work overtime and the other is used to work overtime in the shop. In the case at hand, Carman Paul Barrett (a shop employee) was called to work overtime on a position in the yard. However, his name was not on the yard overtime board. This assignment resulted in this claim, because the Claimant (a yard employee) was "first out" on the yard overtime board, but was not called.

There is no serious dispute as shown by the record developed on the property that there are two separate overtime boards, one for yard work and the other for shop work. It has also been shown by the on-the-property record that Carman Barrett spent most of his shift working in the yard, inspecting cars, rather than working in the shop.

The Board concludes that the claim must be denied for the reasons that follow. There is no showing that a Car Inspector vacancy existed on the date in question, i.e. December 11, 1994. Linked with this fact is that the position or vacancy which caused the Carrier to call Carman Barrett came about because Carman J. R. Gore was off on a personal day. Carman Gore worked in the shop. Thus, his vacancy would have been properly filled from the shop overtime board. Accordingly, the controlling question is whether the Carrier violated the Agreement because Carman Barrett worked in the yard for most of his shift, rather than in the shop.

The Carrier consistently on the property asserted that its actions here were commonplace. Specifically, first shift shop employees regularly assigned to the shop were required to work in the yard at various times. This key assertion was not refuted on the property. Indeed, this aspect of the dispute could have been disputed by a statement from Carman Gore as to the validity of the Carrier's assertion. That the

Carrier's contention of a material element was not refuted on the property clearly adds substance to its position.

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 6th day of August 1998.