

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13319

Docket No. 13018

98-2-95-2-43

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

**(International Brotherhood of Electrical Workers
(System Council No. 9)**

PARTIES TO DISPUTE: (

**(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)**

STATEMENT OF CLAIM:

- "1. That on November 5, 1993, CSX Transportation, formerly L&N Railroad Company, in violation of Agreement Rule 12, Appendix 'B', failed to call Electrician W. Weninegar in proper rotation for overtime work, and accordingly;**
- 2. That Carrier now compensate Electrician W. Weninegar for twelve (12) hours at the then applicable straight time rate of pay (eight (8) hours at time and one-half) in accordance with Agreement Rule 12, Appendix 'B', 18."**

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 the events leading to this claim, the Claimant was employed at the Carrier's Corben, Kentucky, facility as an Electrician. He held a regular swing shift assignment, consisting of Wednesday and Thursday, 11:00 P.M. to 7:00 A.M.; Friday, 3:00 P.M. to 11:00 P.M.; Saturday and Sunday, 7:00 A.M. to 3:00 P.M. with Monday and Tuesday as rest days.

After the Claimant completed working the second shift on Friday, November 5, 1993, there were third shift vacancies which could only be filled on an overtime basis. Although the Claimant was next out for call on the overtime board, the Carrier called the Electrician below the Claimant for the overtime. The Organization contends that the failure of the Carrier to call the Claimant for the overtime violated Rule 12, which reads, in pertinent part, as follows:

**"RULE 12.
DISTRIBUTION OF OVERTIME**

* * *

12(b) Overtime will be distributed as equally as possible among the different classes of employees of each department or sub-department as far as the character of the work will permit.

NOTE: Refer to 'overtime agreement' contained in Appendix 'B'.

"APPENDIX 'B'

4. Upon being placed on the overtime board, an employee will stand for service and be rotated in accordance with his standing on the overtime board, as provided in this agreement. Rotating the man assigned to the overtime board will be considered as meeting the requirements of Rule 11 [Rule 12]." (Emphasis added)

The Carrier for its part mainly relies upon Section 9 of Appendix "B" which provides as follows:

"9. An employee assigned to both the Sunday-holiday and miscellaneous overtime boards notified to report for service on a

Sunday or holiday will, after such notice has been given, be considered available to work from the miscellaneous overtime board; except that no employee shall work more than 16 hours in any 24-hour period, computed from the starting time of his regular shift, unless on line of road performing emergency road work or engaged in wrecking service. If the employee's turn stands to work from the miscellaneous overtime board during the hours he is working on a Sunday-holiday assignment, he will be considered as having worked his turn on the miscellaneous overtime board and dropped to the bottom of the board."

While there are a number of collateral issues that arguably could be addressed in this case, the critical issue here is the application of Appendix B, which is relied upon by both parties. We find that Section 9 is controlling and that the "starting time of his regular shift" means the shift on which the employee was working (second shift). Therefore, had the Claimant been allowed to work, it would have resulted in his continuously working for 24 hours, because his next regularly scheduled shift began at 7:00 A.M. on Sunday.

It has been well established that an employee's primary responsibility is to work his own position. In this case, had he worked the next shift, he would not have been able to protect his regular assignment, i.e., the first shift on Saturday. See among many Awards, Second Division Awards 12904 and 12209; Third Division Awards 31595, 30779 and 30774; Fourth Division Awards 2991, 2945, 2859, 2588 and 2182.

We find, absent "emergency service" or "wrecking service," as provided in Section 9, that the Agreement does not provide entitlement to the work. See Second Division Awards 12603, 13135 and 13136.

AWARD

Claim denied.

Form 1
Page 4

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Docket No. 13018
98-2-95-2-43

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 16th day of September 1998.