

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13389
Docket No. 13299-I
99-2-97-2-72**

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

(Michael J. Farthing

PARTIES TO DISPUTE: (

(National Railroad Passenger Corporation (AMTRAK)

STATEMENT OF CLAIM:

- “1. That The National Railroad Passenger Corporation violated the overtime Agreement, in particular Rule 13, when on date of January 7, January 8 and January 9, 1996, I was not called for overtime, and:**
- 2. that accordingly, the National Railroad Passenger Corporation should make me whole again by paying all wages I would have earned if I were called and worked the overtime in dispute.”**

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.

On January 7, 8 and 9, 1996, the states of Pennsylvania, Delaware and New Jersey were inundated with snow, with the Governors of each state declaring an emergency and ordering all roads be closed.

Amtrak still had to operate and those who were already on duty when the snow commenced, remained on duty to work as required. Claimant was, obviously, at home when this snow hit. He is of the belief he should have been called to work on Sunday, and once on the job, retained until Tuesday as others were.

Claimant filed claim seeking the overtime, and referred to an April 1, 1985 Agreement that allegedly was violated. (Although Carrier argues in its Submission that Claimant cited no Rule in the on-property handling, it is confirmed that the April 1, 1985 Agreement was referred to.)

Item 2 of that Agreement reads:

“2. IT IS THE UNDERSTANDING OF THE PARTIES THAT THIS LOCAL AGREEMENT SHALL SUPPLEMENT, BUT SHALL IN NO WAY CHANGE OR MODIFY THE EXISTING SCHEDULE AGREEMENT.”

Item 4 of the same Agreement reads in pertinent part as follows:

“...OVERTIME WORK, ACCRUING TO EMPLOYES COVERED BY THIS AGREEMENT, SHALL BE SHARED AND ALLOCATED AMONG THE EMPLOYES AVAILABLE ACCORDING TO ROTATION....”

The Overtime Rule on the property reads:

“Overtime to be distributed in conjunction with the duly authorized local committee of the craft of their representative and the local management. Record will be kept of overtime worked and the men called with the purpose in view of distributing the overtime equally.”

Basically, the craft's Overtime Rule is not a seniority type rule. The youngest and the oldest in seniority share whatever overtime is available.

The special agreement recognized that feature. Claimant may be owed a future share of any available overtime until his overtime would equal that paid the junior employees on January 7, 8 and 9, 1996, but as long as the Carrier honors the shared

Overtime Rule, of which there is no indication to the contrary, Carrier's utilization of its Electricians on January 7, 8 and 9, 1996, was proper, particularly under the conditions prevalent on the claim dates.

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 12th day of April 1999.