NATIONAL RAILROAD ADJUSTMENT BOARD

Award Number 23565
THIRD DIVISION Docket Number SC-23823

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
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(Illinois Central Gulf Railroad

STATEMENT OF CLAIM: "Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Illinois Central Gulf Railroad.

On behalf of Signalman Relief #1, E. F. Hosty, Gang 314, Employee No. 41928, Signalman H. R. Reinbold, Gang 315, Employee No. 35917, and Assistant Signalman W. C. Young, Gang 315, Employee No. 48201, for fourteen hours each at the appropriate overtime rate account not being used in overtime service on Saturday, May 19, 1979."

OPINION OF BOARD: This is a claim on behalf of E. F. Hosty, Gang 314; H. R. Reinbold, Gang 315; and W. C. Young, Gang 315 for 14 hours of overtime because they each allege that a less senior employee than they were worked planned overtime on May 19. 1979, when they were willing and able to work the overtime.

The Organization argues on their behalf that Carrier violated their rights as guaranteed under Rule 13, Paragraph (i), of the Schedule Agreement. That rule reads as follows:

> "(i) When overtime service is required of a part of a gang or group of employees, the senior employees of the gang or group involved, who are available shall have preference to it."

The Organization maintains that when Carrier used men from Gangs 314, 315 and 316 to do the work at issue, it gave preference to men in one gang (316). It insists that Carrier is required to use the most senior men in the group as a whole (all employes in gangs 314, 315, and 316) when selecting personnel for overtime.

Carrier, on the other hand, argues that paragraph (i) states that overtime can be assigned on a single gang basis and that consequently, employes in the selected gang had preference for the available overtime over all other employes. Thus, employes from other gangs senior to those in the gang assigned the work have no claim to overtime.

While the central issue of this dispute is the question of what is the proper unit from which to select employes for overtime (a single gang or all three gangs as a group), a number of other issues must also be addressed.

At the outset, it is the Opinion of the Board that Rule 13 (i) does allow Carrier to designate which gang will be Assigned overtime work. It Assigned Gang 316 to the job And, AS A result, members of Gang 316 have preference over members of Gang 314 And 315 for the work.

In Addition to the members of Gang 316, Carrier needed more men to complete the job. It drew A Foreman And A Signalman from Gang 314. It used A Lead Signalman from Gang 315. Carrier Alleges&At Claimants Reinbold And Young have no claim to overtime because no one from their classifications WAS used from Gang 315. It ● lso Alleges that Claimant Hosty from Gang 314 turned down the opportunity to work And therefore has no claim to the overtime.

The record reveals that the only employe who worked on this project from Gang 315 WAS A Lead Signalman. Claimant Reinbold is A Signalman And, AS such, cannot replace A Lead Signalman on the job. Claimant Young is An Assistant in Gang 315. No Assistant from Gang 315 worked, so Young has no claim to lost time. The Assistant who did work WAS A member of Gang 316, the gang Assigned the overtime project. As A member of the Assigned gang, he has preference over all other Assistants in Gangs 314 And 315.

Claimant Hosty from Gang 314 did not work while A man of his same classification with less Seniority was used. Claimant Asserts that he WAS ready And Able to work the overtime and that he was denied the opportunity to do so. He submitted two Affidavits to prove that he WAS trying to obtain the overtime work, but WAS denied the opportunity by his Foreman And his Supervisor.

This Board has reviewed the record And the facts presented on this issue And must conclude that Claimant has produced sufficient evidence to convince the Board of his position. Carrier indicated that Claimant turned down the overtime work And consequently has no claim to A loss of work opportunity. That statement in the record is the extent of Carrier's position on the Hosty claim. There is no mention of when, where, or how Claimant rejected the offer, AS well As what WAS said or the circumstances surrounding the case. There is only Carrier's statement that Claimant turned down the work.

Claimant, on the other hand, produced A notarized statement from himself And one from A fellow worker indicating that he tried to get the work in question but that for some reason, he WAS denied the opportunity to do so.

When one compares what Claimant presented on his behalf And what Carrier presented to support its position on this point, it is difficult to conclude (given the self-serving nature of both statements) that Claimant has not tipped the scales in his favor. This Board will therefore award the 14 hours overtime pay to Claimant Hosty, but deny it to Reinbold And Young.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record And all the evidence, finds and holds:

That the parties waived or.1 hearing;

That the Carrier And the Employes involved in this dispute Are respectively Carrier And Employes within the meaning of the Railway Labor Act, AH Approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; And

That the Agreement was violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

BY Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated At Chicago, Illinois, this 10th day of March 1982.