

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32752  
Docket No. SG-32952  
98-3-96-3-320**

**The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.**

**(Brotherhood of Railroad Signalmen  
PARTIES TO DISPUTE: (  
(Wheeling & Lake Erie Railway Company**

**STATEMENT OF CLAIM:**

**“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Wheeling & Lake Erie Railway Co. (WLE):**

**Claim on behalf of V. L. Hannahs Sr. for payment of 28 hours at the time and one-half rate, account Carrier violated the current Signalmen's Agreement, particularly Rule 14, when it assigned a junior employee instead of the Claimant to perform overtime service on January 9, 10, 11, 12, 13, 16, 17 and 18, 1995. General Chairman's File No. 231/950201. BRS File Case No. 9774-WLE.”**

**FINDINGS:**

**The Third 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 relevant time, Claimant held the position of Maintenance of Way Welder and was assigned to the Carrier's Mingo Track Gang. For three hours on January 9, 10, 11, 12, and 13, 1995; for 3.5 hours on January 16, 1995; for 4.5 hours on January 17,**

1995; and for 5.0 hours on January 18, 1995, the Carrier used employees junior to Claimant on the Mingo Track Gang to perform overtime on work customarily performed by Claimant. Although senior, qualified and available, Claimant was not utilized for overtime service.

Rule 14 provides as follows:

**"Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them during the course of their work week or day in the order of their seniority."**

The above is the status of the record developed on the property. There is nothing in that record to substantiate the Carrier's assertion that the gangs were split and performing different work. The positions in the Carrier's Submission are essentially new arguments not previously raised on the property. The status of this record shows that Claimant was deprived of overtime in violation of Rule 14. Hours shall be paid at the straight time rate.

### **AWARD**

Claim sustained in accordance with the Findings.

### **ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

Dated at Chicago, Illinois, this 23rd day of September 1998.