

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33942
Docket No. SG-34814
00-3-98-3-524**

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

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Wheeling and 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 Company (W&LE):

Claim on behalf of D. K. Kovach, E. Ashley, and D. M. Russell for payment of 11 hours each at time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 14, when it used other employees instead of the Claimants to perform overtime work at Lodi, Ohio, on May 20 and 21, 1997, and deprived the Claimants of the opportunity to perform this work. Carrier’s File No. 97-BRSMW.008. General Chairman’s File No. 231/970714B. BRS File Case No. 10642-W&LE(M).”

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.

On this property there apparently exists two section gangs, one headquartered at New London and the other at Brewster.

The Carrier called out the New London gang to perform work at Lodi. The Organization filed claim on behalf of the Brewster gang contending the Carrier violated Rule 14 of the current Agreement, which reads as follows:

“A. Except when employees are notified or called for overtime service, they will be free after their assigned tour of duty.

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 order of their seniority. (In emergencies consideration will be given to employees that can respond promptly.)”

To this Board, the Rule does not come into play in any way. There are no assigned territories for gangs on this Carrier, nor are there distinct seniority district lines. There is only one roster and one district. Besides, Rule 14 refers to individuals that stand to be called in the order of their seniority. There is absolutely no showing that every member of the Brewster gang was senior to anyone in the New London gang. Thus, Rule 14 is not a Rule that supports the Organizations contention of a Rules violation. With no Rule support, there is no sustainable claim.

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 Third Division

Dated at Chicago, Illinois, this 22nd day of February, 2000.