

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33943
Docket No. SG-34851
00-3-98-3-543**

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

PARTIES TO DISPUTE: (
(Brotherhood of Railroad Signalmen
(Wheeling and Lake Erie Railroad 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 T. J. Cicconetti for payment of 3.5 hours at time and one-half rate, account Carrier violated the current Signalmen’s Agreement, particularly Rule 14, when it used another employee instead of the Claimant to perform overtime work at Canton, Ohio, on January 19, 1997, and deprived the Claimant of the opportunity to perform this work. General Chairman’s File No. 231/970308. BRS File Case No. 10714-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 January 19, 1997, the Carrier called out an employee junior to Claimant “to fix two Pull Aparts” at the overtime rate. The Organization argued that Carrier was in violation of Rule 14, which reads in pertinent part 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 order of their seniority. (In emergencies consideration will be given to employees that can respond promptly.)”

As is evident by reading the afore-quoted Rule, overtime is not based exclusively upon seniority. If more than one employee ordinarily and customarily performs the work that is required to be done at the overtime rate, then the senior (providing it is not an emergency) will be given preference.

Claimant is a welder who ordinarily and customarily welds. The employee utilized is a Trackman who usually and customarily does track work, including repairing pull aparts.

There is no denying that Claimant fixed pull aparts in the past and possibly will be called upon to fix some in the future, but this is not work he usually and customarily performs.

Carrier was not in violation of Rule 14.

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.