

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40904
Docket No. SG-41013
11-3-NRAB-00003-090371**

The Third Division consisted of the regular members and in addition Referee Lisa Salkovitz Kohn when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Northeast Illinois Regional Commuter Railroad
(Corporation (Metra)**

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the Northeast Illinois Regional Commuter Rail Corp.:

Claim on behalf of R. C. Charles, for 24 hours overtime pay, account Carrier violated the current Signalman’s Agreement, particularly Rules 15 and 26, when it used a junior employee instead of the Claimant for overtime service on January 27, 2008, and February 1 and 2, 2008, and denied the Claimant the opportunity to perform this work. Carrier’s File No. 11-21-665. General Chairman’s File No. 113-RI-08. BRS File Case No. 14256-NIRC.”

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 all times relevant to this dispute, the Claimant was consisting Signal Testman, headquartered at Blue Island, Illinois, with an assigned territory consisting of the Rock Island and Southwest Service Districts within the Rock Island Engineering District. The Organization objects that on February 1 and 2, 2008, the Carrier worked a signal employee who was junior to the Claimant and did not work the Claimant, in violation of Rules 15 and 26.

The facts leading to this dispute are as follows: On Friday, January 18, 2008, Signal Testman R. Moya was assigned to a group of Signal Testmen headquartered at Blue Island, on the Rock Island Engineering District. This group of Signal Testmen was assigned to perform testing at Gresham Interlocking, on the Rock Island Engineering District. The work began during the employees' regular workweek. On Saturday, January 26 and Sunday, January 27, 2008, employees who had performed this work during their regular workweek were assigned to perform FRA testing at this location on an overtime basis. Three Signal Testmen in this group worked from 6:00 A.M. to 6:00 P.M. on January 26, and four employees from the group worked from 6:00 A.M. to 6:00 P.M. on January 27.

The same group of employees continued this work during the following workweek. They performed FRA testing during their regular work hours at Gresham Interlocking from Monday, January 28 through Thursday, January 31, 2008. On Friday, February 1, 2008, the group, including Testman Moya, received compensation for their regular shift but rested, and then worked from 7:00 P.M. on February 1 until 7:00 A.M. on February 2, 2008, performing FRA testing at Gresham Interlocking. These employees were compensated at the overtime rate; they did not work after 7:00 A.M. on Saturday, February 2, 2008.

The Claimant, who is also a Signal Testman headquartered at Blue Island, Illinois, is senior to Testman Moya. However, he was assigned to a different group of Signal Testmen and had no connection to the testing at Gresham Interlocking during this period.

On February 29, 2008, the Organization filed a claim asserting that the Carrier violated Rules 15 and 26 on Sunday, January 27, Friday, February 1, and Saturday,

February 2, 2008, by working Testman Moya rather than the Claimant, who is senior to Moya. The Claimant is assigned to the territory where the work was performed and was available for service on those dates. The claim sought 24 hours of pay at the Claimant's overtime rate for the loss of this work opportunity.

Rule 26 provides the basic definition of "seniority" — "Seniority shall consist of rights based on relative length of service of employees as herein provided." The Organization asserts that Rules 15 and 26 are clear that, when needed, the senior signal employees will be called for overtime service on their assigned territory.

However, Rule 15 specifically states, "When overtime service is required of a part of a group of employees who customarily work together, the senior qualified employee in the class involved shall have preference to such overtime." The Carrier contends that this language and the "Example" in the Rule demonstrate that overtime work must first be offered to the employees who have been performing the work as their regular assignment, according to classification and seniority. Nothing in Rule 15 requires that the Carrier remove a junior employee who has been performing the work during his regular workweek and offer the work to a senior employee who has had no connection with the work. The Carrier asserts that the latter employee is not "part of the group of employees who customarily work together," and as a result, the Claimant is not entitled to the overtime work.

The Organization rejects this interpretation, noting the statement at the end of the "Example" that "This rule and example apply to 'gang and signal shop.'" The Organization concludes that the quoted provision in Rule 15 did not apply to the Claimant's situation because neither he nor Testman Moya were gang or shop personnel. Instead, Rule 15 and 26 required that the overtime work be given to the senior employee in the class, i.e., the Claimant.

The Board previously determined the reach of Rule 15's requirement that "When overtime service is required of a part of a group of employees who customarily work together, the senior qualified employee in the class involved shall have preference to such overtime applicability to employees." In Third Division Award 39491, the Board applied the requirement, even though the dispute over overtime work involved a Signal Electronic Technician and other signal employees without regard to whether they were gang or signal shop personnel. The Board concluded that

because the claimant therein was not “a member of a group of employees who customarily work together,” “Rule 15 therefore does not give the Claimant assignment rights for the disputed overtime work.”

Although the claim disposed of in Award 39491 raised issues not presented here, due to that claimant’s position as a Signal Electronic Technician covered by Side Letter No. 10, the Board’s analysis and application of Rule 15 was independent of Side Letter No. 10. We reaffirm that interpretation of Rule 15. The Rule’s requirement — that when overtime service is required of a part of a group of employees who customarily work together, the Carrier must give preference to the senior qualified employee in that group in the class involved — is not limited to gang and signal shop personnel. Claimant Charles was not part of the group of employees who had worked together on the Gresham Interlocking testing immediately preceding and following the contested overtime work. The Carrier did not violate Rule 15 by offering the overtime to a qualified and available Testman who was junior to the Claimant but who was a part of that group. Accordingly, the claim is denied.

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 10th day of March 2011.