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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41154
Docket No. MW-41230
11-3-NRAB-00003-100079**

The Third Division consisted of the regular members and in addition Referee Patrick Halter when award was rendered.

PARTIES TO DISPUTE: (**(Brotherhood of Maintenance of Way Employees Division -**
(**IBT Rail Conference**
(**(National Railroad Passenger Corporation (Amtrak)**
(**- Northeast Corridor**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to call and assign B&B Mechanic M. D’Onofrio for overtime work in providing protection for B&B employees manning a pump at the tunnel at Mile Post 37.3 in Hartford, Connecticut on September 28, 2008 and instead called and assigned junior B&B Mechanic S. Marcucci (Carrier’s File NEC-BMWE-SD-4811 AMT).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. D’Onofrio shall now be compensated for ten (10) hours at his overtime rate of pay.”**

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.

The claim, dated October 1, 2008, alleges that the Carrier violated Rule 55 (Preference for Overtime Work) when it assigned a junior B&B Mechanic to perform watchman duties on overtime at the Hartford Tunnel from 8:00 P.M. on September 28 to 6:00 A.M. on September 29, 2008.

The progression of the claim on property reveals it was processed in the usual and customary manner, including placement before the highest officer of the Carrier designated to handle it. Following a conference discussion on April 28, 2009, the claim is now properly before the Board for adjudication.

There is no dispute that on the contested claim dates heavy rains occurred in the vicinity of the Hartford Tunnel necessitating that Plumbers staff the pumps. To obtain roadway protection personnel for this staffing, the Carrier offered the overtime assignment to employees based on their overall seniority dates. The Claimant's overall seniority dates from 1998, whereas the employee who was offered and accepted the overtime assignment established seniority in 1979.

In this case, the Organization contends that because the overtime was assigned to a B&B Mechanic, the Claimant should have been afforded preference based on his superior seniority in the B&B Mechanic class. In other words, the Claimant's work classification seniority date should be followed in this situation.

The record evidence shows that the kind of protection work involved here historically has been offered in seniority order based on the earliest retained service date with the Carrier. Moreover, protection work is not reserved to a particular craft or class of employees, but rather is traditionally performed by various crafts and classes. This past practice continues and is applicable and dispositive of the instant claim. Specifically, inasmuch as the Claimant was not the senior employee given his basic 1998 Amtrak seniority compared to the 1979 Amtrak seniority date of the assigned employee, the Agreement was not violated in the instant case.

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Because the Organization failed to establish a violation of the Agreement, the claim will be 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 21st day of November 2011.