

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 41191  
Docket No. SG-40746  
12-3-NRAB-00003-080622

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

**PARTIES TO DISPUTE:** (Brotherhood of Railroad Signalmen  
(  
(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 C. J. Fatora for 24 hours overtime, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15 and Side Letter No. 10, when it used a junior employee instead of the Claimant for overtime service on June 17 and 18, 2006, and denied the Claimant the opportunity to perform this work. Carrier’s File No. 11-21-582. General Chairman’s File No. 13-MW-06. BRS File Case No. 14065-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.

The Claimant is a Signal Testman and Journeyman holding prior rights on the Milwaukee District, working a 7:00 A.M. to 3:00 P.M., Monday through Friday schedule.

Weekend overtime on June 17 and 18, 2006, was called for work performed by a Signal gang on the Milwaukee District which had been supporting a Maintenance of Way gang during the week. Members of that Signal gang were junior to the Claimant and were assigned the weekend overtime work. This claim followed.

This is the same dispute resolved by the Board in Third Division Award 41188. Indeed, in its Submission, the Carrier acknowledges that this case is the same as that contained in Award 41188. Specifically, at Page 19 of the Carrier Submission it states: ("The Carrier would also like to bring the Board's attention to the fact that there is a nearly identical claim for work performed by a Signal maintenance gang, on behalf of another employee . . . [identifying the claimant in Award 41188 . . . [t]he facts are almost identical to those in this case . . . .") In Award 41188, the Board held that Side Letter No. 10 and Public Law Board No. 5565, Award 34 required that "[p]rior rights takes priority in the exercise of seniority, overtime allocation. . . ." That same rationale governs this matter.

The fact that the overtime work was not performed by a Signal Testman does not change the result. The Claimant was a Journeyman and there is no demonstration that the Claimant was not qualified to perform the work.

In terms of a remedy, the Claimant shall be made whole for any lost overtime opportunities on the dates set forth in the claim. However, if the Claimant earned overtime on any of the dates set forth in the claim, those amounts shall be offset against the Carrier's liability.

#### 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 22nd day of February 2012.