

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41198
Docket No. SG-40817
12-3-NRAB-00003-090086

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 and T. H. Stone, for 12 hours overtime to each Claimant, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15 and Side Letter 10, when it used junior employees instead of the Claimants for overtime service on July 28, 2007 and denied the Claimants the opportunity to perform this work. Carrier’s File No. 11-21-634. General Chairman’s File No. 13-MW-07. BRS File Case No. 14173-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 Claimants are Signal Maintainers on the Milwaukee District with Monday through Friday schedules. The Claimants also hold prior rights on the Milwaukee District.

On Saturday, July 28, 2007 (a date the Claimants were not scheduled to work) the Carrier assigned overtime at the A-2 Interlocking on the Milwaukee District to Signal Testmen who were junior to the Claimants. This claim followed.

In Third Division Award 41188 the Board held that Side Letter No. 10 and Public Law Board No. 5565, Award 34 required that for employees stationed on their prior rights district, "[p]rior rights takes priority in the exercise of seniority, overtime allocation. . . ." That same rationale governs this matter. As the senior employees, the Claimants were entitled to the disputed overtime opportunities.

In terms of a remedy, the Claimants shall be made whole for any lost overtime opportunities on the date set forth in the claim. However, if the Claimants earned overtime on that date, 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.