

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41200
Docket No. SG-40838
12-3-NRAB-00003-090119

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 A. J. Ciesla and R. L. Eastin, for 40 hours straight time and 10 hours overtime each, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15, Side Letter 10, and a Letter of Agreement regarding the calling of gangs for overtime service, when it used junior employees instead of the Claimants for service on November 28, 29, and 30, 2007 (sic), and December 1, 2, and 4, 2007 (sic), denying the Claimants the opportunity to perform this work. Carrier’s File No. 11-21-550. General Chairman’s File No. 112-RI-06. BRS File Case No. 14064-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 members of Signal Gang No. 1 headquartered at Blue Island on the Rock Island District with Monday through Friday work schedules. Claimant Eastin holds prior rights on the Rock Island District. No similar assertion is made for Claimant Ciesla.

While both parties quote claim dates from 2007 in their Submissions for the Statement of Claim, in their Submissions and consistent with the record developed on the property, this dispute is about dates in 2005. As noted by the Carrier in its Submission at Page 3, note 1, the 2007 reference in the Organization's claim is a "typographical error." The period in dispute as set forth in the Organization's claim letter dated January 18, 2006, is Monday, November 28 through Friday, December 2, and Sunday, December 4, 2005, for which dates relief is sought for the Claimants by the Organization.

Beginning November 28, 2005, the Carrier assigned employees from Signal Gang No. 2 headquartered at Manhattan, Illinois, on the Carrier's Southwest Service District to test signal electrical cable at Blue Island Interlocking during their regularly scheduled workweek, i.e., November 28 through December 2, 2005. The work also included overtime work and was performed on the Rock Island District. According to the Organization, the employees assigned the work were junior to the Claimants and were headquartered on another prior rights district. According to the Carrier's February 15, 2006 letter, "Claimants Ciesla and Eastin were compensated for eight (8) hours pay each at their straight-time rate of pay, for November 28th through December 2, 2005, for a total of forty (40) hours pay each."

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. An employee with prior rights on the Rock Island District and stationed on that district is entitled to overtime opportunities on that district based on seniority gained through prior rights.

Eastin's prior rights on the Rock Island District entitled him to the seniority benefits of those prior rights for overtime allocation. Because Ciesla did not hold

prior rights on the Rock Island District, Ciesla was not entitled to the seniority entitlements flowing from prior rights on that district.

The fact that the Claimants were compensated for eight hours pay for November 28 through December 2, 2005, moots any claim they may have for pay for any work performed by members of Signal Gang No. 2 during that period if the Claimants also worked on those days. For overtime performed by Signal Gang No. 2 on days Eastin was not scheduled to work (i.e., Sunday, December 4, 2005) Eastin's greater seniority gained through his prior rights on the Rock Island District entitles him to a remedy to be made whole for those lost overtime opportunities performed on his non-scheduled work days on that district. However, if Eastin earned overtime on a day for which he was entitled to overtime due to his prior rights, those amounts shall be offset against the Carrier's liability.

With respect to Ciesla – and given his lack of prior rights on the Rock Island District – the Board finds no Rule support which entitles him to overtime on any of the days in dispute. For Ciesla, the record sufficiently establishes that the overtime work was performed by the gang associated with the work during the workweek.

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.