

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41202
Docket No. SG-40841
12-3-NRAB-00003-090147

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 D. A. Moore and R. W. Sorensen, for 23 hours overtime to each Claimant account Carrier violated the current Signalmen’s Agreement, particularly Rules 1, 15, and Side Letter 10 (dated May 16, 1999), when it used junior employees instead of the Claimants for overtime service on April 1 and 2, 2006, and denied the Claimants the opportunity to perform this work. Carrier’s File No. 11-21-572. General Chairman’s File No. 124-RI-06. BRS File Case No. 14038-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 Testmen headquartered at the Tinley Park Wire Shop with an assigned territory of the Rock Island, CWI, and Southwest Service Districts working Monday through Friday schedules. The Claimants also hold prior rights on the Rock Island District.

On Saturday and Sunday, April 1 and 2, 2006, the Carrier assigned two Signal Electronic Technicians who were junior to the Claimants, but in a higher classification, to perform planned overtime work testing the proper downgrade of signal aspects on the Root Street territory and the Gresham Interlocking on the Rock Island Engineering District. According to the Carrier's June 27, 2006, letter and due to a request by the F.R.A, the junior employees "... were verifying that the solid state interlocking units were providing the proper aspects if a light unit had a burned out bulb . . . [and w]ork of this nature is generally performed by Signal Electronic Technicians." 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. 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 greater seniority gained through prior rights. Because of their greater seniority through their prior rights on the Rock Island District, the Claimants were therefore entitled to the overtime on April 1 and 2, 2006.

The Carrier's assertion that the Claimants were not "stationed" on their prior rights Rock Island District is not persuasive to change the result. The record shows that the Claimants were stationed on the Rock Island District by virtue of their bulletined district and by their working on that district where the overtime work was performed.

Further, the fact that the overtime testing work was not performed by Signal Testmen, but was performed by Signal Electronic Technicians also does not change the result. There is no demonstration that the Claimants as Signal Testmen were not qualified to perform the testing work.

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