

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41207
Docket No. SG-40927
12-3-NRAB-00003-090246**

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 K. C. Lovato, for 23 hours overtime, account Carrier violated the current Signalmen's Agreement, particularly Rule 15 and Side Letter 10 (dated May 16, 1999), when it used a junior employee instead of the Claimant for overtime service on November 3 and 4, 2007, and denied the Claimant the opportunity to perform this work. Carrier's File No. 11-21-644. General Chairman's File No. 109-RI-07. BRS File Case No. 14200-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.

At the time this dispute arose, the Claimant was a Signal Maintainer at the Gresham Interlocking and headquartered on the Rock Island District. The Claimant

worked a Monday through Friday schedule. The Claimant also held prior rights on the Rock Island District.

On Saturday, November 3 and Sunday, November 4, 2007, the Carrier assigned a Signal Electronics Technician (SET) who was junior to the Claimant to work overtime at 66th Court on the Rock Island District assisting in the performance of crossing renewal. The SET jumpered the crossing out of service and performed recalibration of the grade crossing protection units to assure they were working properly. The SET was assigned to provide signal support to a Maintenance of Way Tie gang working on the territory and the Carrier asserts the work stemmed from the SET's regular assignment, having performed the same work on grade crossings on the territory over the previous month. There is no showing that the Claimant was not qualified to perform the work.

As in Third Division Award 41188, Side Letter No. 10 dated May 16, 1999 ("Prior rights, and the seniority that goes with it, shall be applied as being superior to an individual's relative position on the system seniority roster when an employee is stationed on their prior rights district . . . [and p]rior rights takes priority in the exercise of seniority, overtime allocation, and preference for receiving vacation or other paid for time not worked") and Public Law Board No. 5565, Award 34 govern this dispute and require a sustaining award.

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.