

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41211
Docket No. SG-40995
12-3-NRAB-00003-090331**

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 M. L. Cathcart and R. W. Sorensen, for 25 hours overtime each, account Carrier violated the current Signalmen's Agreement, particularly Rule 15 and Side Letter 10 (dated May 16, 1999), when it used junior employees instead of the Claimants for overtime service on January 5 and 6, 2008, and denied the Claimants the opportunity to perform this work. Carrier's File No. 11-21-657. General Chairman's File No. 103-RI-08. BRS File Case No. 14231-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 Claimants were Signal Testmen headquartered at the Tinley Park Wire Shop, with assigned territory of the Rock Island and Southwest Service Districts. The Claimants worked Monday through Friday schedules. The Claimants also held prior rights on the Rock Island District.

On Saturday, January 5 and Sunday, January 6, 2008, the Carrier assigned two Signal Electronic Technicians (SETs) who were junior to the Claimants to work overtime. On January 5, 2008, the SETs worked at Mile Post 35.5 on the Rock Island District ensuring that the PLC program for the snow melters worked as intended. On January 6, 2008, the SETs performed downloads at various crossings on the Southwest Service District and emailed those to the Engineering Department to assist in interpreting and reviewing the data for diagnostic purposes. According to the Carrier, the work performed by the SETs on overtime on the dates in question was work begun by the SETs during their regular workweek. There is no showing that the Claimants were 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.

However, according to the record, the Claimants held prior rights on the Rock Island District. For the work performed on Saturday, January 5, 2008, the SETs performed overtime service on the Rock Island District, which, under Award 41188, Side Letter No. 10 and Public Law Board No. 5565, Award 34, entitled the Claimants to the overtime opportunities in preference to the two junior SETs on January 5, 2008. But, according to the case record, and specifically according to the Organization’s February 19, 2008 claim letter, the work on January 6, 2008 was performed “. . . at numerous crossings on Metra’s Southwest Service prior rights district. . . .” The Organization did not assert that the Claimants held prior rights on the Southwest Service District. The Claimants were therefore not entitled to the January 6, 2008 work performed on the Southwest Service District. Stated differently, the Claimants were entitled to the January 5, 2008 overtime work

performed on the Rock Island District, but not to the January 6, 2008 overtime work performed on the Southwest Service District.

In terms of a remedy, the Claimants shall be made whole for any lost overtime opportunities on January 5, 2008. 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.