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**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 41842
Docket No. SG-41509
14-3-NRAB-00003-110105**

The Third Division consisted of the regular members and in addition Referee Michael Capone 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 Railroad Corp. (METRA):

Claim on behalf of R. B. Haywood, for one hour at his straight time rate of pay, account Carrier violated Agreement Rules 12, 15, 74, and Side Letter No. 13 (dated May 16, 1999), when it suspended the Claimant’s work period for one hour effectively placing him on standby duty in order to avoid overtime on September 8, 2009. Carrier’s File No. 11-21-737. General Chairman’s File No. 27-RI-09. BRS File Case No. 14493-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.

On October 31, 2009, the Organization filed this claim alleging that the Carrier violated Rules 12, 15, 74, and Side Letter No. 13 dated May 16, 1999, (hereinafter referred to as the "Side Letter") when on September 8, 2009 it required the Claimant to suspend work at the end of his tour of duty at 2:00 P.M. and return to his headquarters until 3:00 P.M. when he was to begin working overtime with a signal gang. The Organization argued that the Carrier's actions violated the Agreement when it failed to pay the Claimant one hour of straight time pay for the "stand-by" time between 2:00 P.M. and 3:00 P.M.

The Claimant was assigned to the Rock Island District, and was headquartered at Gresham Interlocking as a Signal Maintainer. The signal gang was assigned to work at the interlocking on September 8, 2009 and the Claimant, in accordance with the Side Letter, was entitled to work with the signal gang on his territory.

The Organization asserts that the Claimant was instructed to suspend work at 2:00 P.M. and wait for the signal gang to transition from straight time at 3:00 P.M. when the overtime assignment began. The signal gang's regularly assigned hours were 7:00 A.M. to 3:00 P.M. Therefore, argues the Organization, because the Claimant was assigned to work with the signal gang, he should have been paid straight time for the one hour that he was put on "stand-by" because the gang was working on his territory between 2:00 P.M. and 3:00 P.M.

The Organization contends that Rule 15 and the Side Letter clearly and unambiguously provide that a Signal Maintainer who is regularly assigned to a territory must work with a signal gang performing work in the same territory. It cites numerous Awards which hold that where contract language is unambiguous the Board is prohibited from adding to, or reading into a Rule, a meaning not contained therein. The Organization argues that the intent of the Rule is to insure that senior signal employees working in a specific territory are assigned to a signal gang performing planned work. It also maintains that Rule 12 prohibits the Carrier from suspending work to "absorb overtime."

Conversely, the Carrier argues that there is nothing in the Agreement that requires it to pay straight time for the one hour between the end of the Claimant's tour and the beginning of the overtime assignment with the signal gang, which the

Organization describes as “stand-by” time. The Carrier contends that the Side Letter governs overtime when other Signal Department employees work on another Signal Maintainer’s assigned territory. According to the Carrier, the Side Letter is specific to overtime and not straight time.

Further, the Carrier contends that Rules 12 and 74 do not apply to the instant case. Here, it argues, the Claimant did not “suspend work during regular hours to absorb overtime” as stated in Rule 12, because he had completed his tour of duty. The Carrier also asserts that Rule 74 does not apply because it pertains to employees whose pay is short for one day or more. The claim here is for one hour of pay.

The relevant contract language, in pertinent part and applicable to the dispute, is as follows:

“RULE 15

SECTION 1 – (a) OVERTIME--BEFORE AND AFTER BASIC DAY:

The hourly rates named herein are for an assigned eight (8) hour day. All service performed outside of the regularly established working period shall be paid as follows:

When overtime service is required of a part of a group of employees who customarily work together, the senior qualified available employees of the class involved shall have preference to such overtime if they so desire.”

SIDE LETTER NO. 13

In connection with adoption of Wage, Rule, and Benefit Agreement today, the issue of the access maintainers have to overtime when other Signal Department employees are performing work on a maintainer’s assigned territory or plant was discussed. In these discussions, it was recognized that, inasmuch as signal maintainers

have primary responsibility for the maintenance of their assigned territory or plant, they should be utilized, to the extent possible, when work is to be performed on such assigned territory or plant.

In view of such recognition, it is hereby agreed that current Rule 15 shall be defined to include maintainers as being part of the ‘group of employees who customarily work together,’ as this phrase is used in the Rule, provided such maintainer(s) actively participate, to the extent possible, in the work being performed during assigned hours. Such use of the maintainer(s) shall not serve to affect the manpower that is required to perform the work.”

The Board finds that the Organization failed to meet its burden to prove with substantial evidence that the Carrier violated the Agreement. A Signal Maintainer, like the Claimant here, assigned to the Gresham Interlocking, is entitled to work with a signal gang working at the interlocking on overtime. The intended purpose of the Side Letter, as stated, is to address “. . . the issue of the access maintainers have to overtime when other Signal Department employees are performing work on a maintainer’s assigned territory or plant . . . that current Rule 15 shall be defined to include maintainers as being part of the ‘group of employees who customarily work together’ as this phrase is used in the Rule” The “Rule” referenced here specifically pertains to “Overtime – Before and After Basic Day.”

The Claimant’s basic day ended at 2:00 P.M. and the overtime for the signal gang began at 3:00 P.M. Therefore, in accordance with the Side Letter and Rule 15, the Claimant was entitled to work the same overtime as the signal gang. Nothing in the record indicates that the Carrier is obligated to provide “stand-by” pay between the end of the Claimant’s basic day and the commencement of the overtime assignment. The Board does not find that any of the other Rules allegedly violated apply to the claim as presented.

Based on the foregoing, the Board finds that the record lacks the requisite substantial evidence that the Carrier violated the Agreement. Accordingly, the claim must be denied.

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AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 28th day of April 2014.