

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32423
Docket No. MW-32147
98-3-94-3-559

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(CSX Transportation, Inc. (former Seaboard
(System Railroad Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Group A Machine Operator D. A. Sanders to perform overtime service driving the ice and water truck on System Production Gang 6XT2, rather than assigning Truck Driver M. B. Davis to perform said work [System File MBD-93-01/12(93-0601) CSX].**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. B. Davis shall be allowed pay for all overtime worked by Group A Machine Operator D. A. Sanders operating said vehicle at the respective truck driver's time and one-half rate of pay.”**

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.

Claimant is assigned to the 6XT2 System Production Gang as a Truck Driver. The Carrier made a truck available for delivery of ice and water to the gang. A CDL was not required for driving that truck. The Carrier offered the job of obtaining ice and water (which involved overtime) to a senior employee who refused the work. Following seniority, the Carrier then offered the work to another employee on the gang - D. L. Sanders, a Machine Operator - who accepted. Sanders was senior to Claimant, but not in terms of Truck Driver seniority. This claim followed asserting that Claimant's Truck Driver seniority was not honored.

Rule 7(B) states:

"The right to work overtime, when required on System Gangs, will accrue first to the incumbent of the position of which the overtime is required. If declined by the incumbent, overtime will be performed by the senior qualified employee in the System Gang indicating a desire to work overtime. If no employee desires to work overtime and overtime is required, the junior qualified employee in the System Gang involved will work the overtime."

The Organization has not carried its burden. The truck did not require a CDL. Any gang member with an operator's license could therefore operate the truck. Rule 7(B) requires "the senior qualified employee in the System Gang indicating a desire to work overtime" to get the work. After the work was refused by a more senior employee, the Carrier offered the work to Machine Operator Sanders who was senior to Claimant. Sanders was qualified to do the work. Rule 7(B) was not violated.

AWARD

Claim denied.

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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 21st day of January 1998.