

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 37657
Docket No. MW-37588
05-3-02-3-701

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(National Railroad Passenger Corporation (Amtrak) -
(Northeast Corridor

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it called and assigned junior employee R. Dickens to perform overtime service (air brake switch renewal work) on August 25 and 26, 2001, instead of Mr. M. Reilly (System File NEC-BMWE-SD-4141 AMT).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant M. Reilly shall now be compensated for twenty-eight (28) hours' pay at his respective 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.

This claim protests the assignment of a junior Maintenance Gang Substation Electrician to perform weekend overtime work on a construction project rather than the Claimant, a member of Construction Gang D-251. It involves the same Claimant, same project, same junior maintenance employee, but a different weekend, as that before the Board in Third Division Award 37655. As in the other case, the issue presented is the application of Rule 55(a) - Preference for Overtime Work.

The arguments made by both the Organization and the Carrier mirror those presented in Award 37655. Due to the fact that this record also establishes that the maintenance gang to which Dickens was assigned performed work on the brake switch renewal project during their regular tour of duty the prior week, and the Claimant and his construction gang were working on an entirely different project, facts not disputed by the Organization and not protested by this claim, the Board adopts the rationale set forth in Award 37655 that the disputed overtime assignment was a continuation of work ordinarily and customarily performed by the maintenance gang on that project, and finds that the Carrier's assignment of overtime to Dickens on August 25 and 26, 2001 was not a violation of the Claimant's seniority rights to overtime under Rule 55(a).

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 7th day of December 2005.