

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 37909
Docket No. SG-38264
06-3-04-3-175**

The Third Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.)

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood of Railroad Signalmen on the CSX Transportation, Inc. (formerly Baltimore & Ohio):

Claim on behalf of V. K. Kennedy and B. L. Watkins, for 7 hours and 30 minutes at the time and one-half rate of pay for V. K. Kennedy; and 1 hour and 30 minutes at the time and one-half rate of pay for B. L. Watkins, account Carrier violated the current Signalmen's Agreement, particularly Rule 14(g) when on January 2 and 3, 2003, Carrier allowed two junior employees, who hold no seniority on the Baltimore West End Seniority District, to perform overtime work that should have been offered to the Claimants who are assigned to the seniority district. As a result of Carrier's actions the Claimants were deprived of an opportunity to perform this overtime work. Carrier's File No. 15(03-0039). General Chairman's File No. BME-01-05-03. BRS File Case No. 12952-B&O.”

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 dispute involves an alleged violation of Rule 14(g) which reads as follows:

"RULE 14 - OVERTIME AND CALLS

* * *

(g) When overtime service is required of a part of a gang or group of employees, the senior employees of the class involved, who are available, shall have precedence of such overtime if they so desire."

The Organization's initial claim alleged that on January 2 and 3, 2003, "... the Carrier brought these two men (Wood and Smith) to Woodstock, MD, to assist ... in repairing pole line damage" The Organization contended that these two men "... do not hold any rights on the Baltimore West End Seniority District."

The case records show that Signalman Wood worked eight hours at straight time plus six hours at overtime on January 2. On January 3, 2003, he worked eight hours at straight time and one and one-half hours at overtime.

The records show that Signalman Smith did not work on January 2, but rather was observing a Safety Bonus Time day off duty. On January 3, 2003, he worked eight hours at straight time plus one and one-half hours at the overtime rate.

Therefore, contrary to the Organization's claim, it is apparent that the Carrier did not bring these two men to Woodstock, Maryland, on January 2, 2003.

On January 2, 2003, Signalman Wood drove a Line Truck from Hancock, West Virginia, to Woodstock, Maryland, to be used in repairing a damaged pole

line. Upon arrival at the worksite, it was determined that the truck could not be used to assist with the necessary repairs. Signalman Wood remained at Woodstock and worked with the other members of the Signal Gang that was making the pole line repairs.

On January 3, 2003, Signalmen Wood and Smith worked with the Signal Gang that was making the pole line repairs after which they returned with the Line Truck to Hancock, West Virginia.

The records show that Claimant Kennedy worked three hours overtime on his regular assignment on January 3, 2003.

The Carrier argued that since 1994 there has been a single Collective Bargaining Agreement and system seniority for all Signal Department employees on the Carrier's property. Therefore, it contends that the two "other" employees mentioned in this claim had a right to be used as they were on the claim dates. Signalmen Wood and Smith were de facto members of the Signal Gang that was repairing the pole line and, as such, had a right to the continuous overtime work of that gang as opposed to the Claimants, both of whom were regularly assigned to individual maintenance sections.

The Rule relied upon by the Organization has previously been examined by the Board. In Third Division Award 36802 the Board held:

"Rule 14(g) provides that when overtime service is required, senior employees shall have a preference for such work. However, the record clearly shows that the Claimant was not a member of the gang to which the work was assigned and the nature of the overtime work in dispute was clearly related to that of the Maintenance of Way System Production Gang.

AWARD: Claim denied."

Again in Third Division Award 27830 it was held:

"The Board has discovered from the record that the Signalman assigned is assigned to Force No. 1691 and the overtime work was in connection with Force No. 1691. Claimant was a member of Force 1693 and, as such, had no preferential right to overtime worked in Force No. 1691. Rule 14(g) clearly states that the senior employee of a gang or group of employees shall have preferential rights to overtime. Force 1691 is the qualified gang in the instance and not Force 1693. Claimant has no rights under Rule 14(g) outside of his gang."

From our examination of the case record, it is the Board's conclusion that all employees involved in this dispute hold system-wide seniority. The individuals who were working together as a gang making repairs to the damaged pole line were entitled to the overtime worked by the gang. The Claimants were not part of the gang working on the damaged pole line and had no demand right to the overtime worked by the gang. Claimant Kennedy was not available to perform the overtime work claimed by him on January 3, 2003. The time consumed driving the Line Truck from and to Hancock, West Virginia, did not create a penalty claim situation for either of the Claimants. From the entirety of this case record, there is no proof to support a contention of violation of Rule 14(g). Therefore, the claim is denied.

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 22nd day of August 2006.