

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40408
Docket No. SG-40661
10-3-NRAB-00003-080546**

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 C. Haywood, for eight hours overtime account Carrier violated the current Signalmen’s Agreement, particularly Rule 15 and Side Letter 10 (dated May 16, 1999), when it used a junior employee instead of the Claimant for overtime service on May 28, 2007 and denied the Claimant the opportunity to perform this work. Carrier’s File No. 11-21-624. General Chairman’s File No. 104-RI-07. BRS File Case No. 14092-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 Claimant was the first shift Signal Maintainer on the Root Street Territory, headquartered on the Rock Island District, with Saturday and Sunday rest days.

Monday, May 28, 2007 was Memorial Day - a scheduled holiday. The Claimant was on vacation during the week prior to Memorial Day (from May 21 to May 25, 2007).

A planned overtime opportunity arose on the Root Street Territory on May 28, 2007, i.e., the holiday following the Claimant's vacation. Instead of calling the Claimant, the Carrier used a junior employee to perform the work. This claim followed.

Rule 15 gives seniority preference for assignment of overtime:

"RULE 15

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

* * *

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."

The Carrier asserts that the Claimant was not entitled to be called for the overtime opportunity because he was on vacation and the junior employee was offered the work because he was covering for the Claimant as a vacation relief employee while the Claimant was on vacation. However, the overtime opportunity did not arise during the Claimant's vacation or on the weekend following his vacation (the Claimant's regularly scheduled days off). Instead, the overtime opportunity arose on the first day of the Claimant's new workweek following the week of his vacation. Under Rule 15, the Claimant should have been called before the junior employee.

Because the Claimant was denied an overtime opportunity, he shall be compensated for eight hours at the overtime rate in accordance with the Agreement.

Because Rule 15 disposes of the claim, the Board need not address the Organization's argument that Side Letter No. 10 was also violated.

AWARD

Claim sustained.

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 14th day of May 2010.