

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40832
Docket No. SG-40749
11-3-NRAB-00003-080633**

The Third Division consisted of the regular members and in addition Referee Lisa Salkovitz Kohn when award was rendered.

**(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(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 M. L. Cathcart, for 10 hours overtime pay, account Carrier violated the current Signalmen's Agreement, particularly Rule 15 and the Letter of Agreement regarding the calling of gangs for overtime service, when it used a junior employee instead of the Claimant for overtime service on June 3, 6, and 7, 2005, and denied the Claimant the opportunity to perform this work. Carrier's File No. 11-28-505. General Chairman's File No. 108-SW-05. BRS File Case No. 14119-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.

In June 2005, a signal gang was assigned to provide support for a maintenance-of-way tie gang. Both gangs were assigned to the Rock Island Engineering District, consisting of the former Rock Island, GM&O, and Norfolk and Western territories (RI/CWI/SWS). Both gangs performed work during their regular workweek on the Carrier's Rock Island Engineering District, on the Southwest Service prior rights territory. Signalman Eastin, who is junior to the Claimant, was assigned to and performed work on the signal gang supporting the tie gang. Signalman Eastin was headquartered on a different prior rights district within the Rock Island Engineering District.

The Claimant was assigned as a Signal Foreman to a different gang, Signal Gang 4, prior to and on the dates in question. His scheduled hours were 7:00 A.M. to 3:00 P.M., Monday through Friday. The Claimant was not involved in the track project, nor did he have any connection to the work supporting the tie gang or the work performed by the signal gang assigned to support the tie gang. He was headquartered on the Southwest Service prior rights district.

Signalman Eastin worked five hours of overtime on June 3, two hours of overtime on June 6 and three hours of overtime on June 7, 2005, for a total of ten hours of overtime. The Organization contends that the Claimant was entitled to be called for that overtime because he was the most senior active signal employee on the NIRCRC Seniority Roster of Signal Department employees and was senior to Eastin and all other employees worked, and Eastin not only was junior, but he was headquartered on another district. The failure to call the Claimant for the overtime violated Rule 15 and the Letter of Agreement regarding the calling of gangs for overtime service, the Organization asserts. The Carrier contends that there was no violation of Rule 15 or the Letter of Agreement; the Carrier asserts that there is a single seniority district under the General Rules Agreement, and the Claimant did not have superior rights to the work simply because he was senior and headquartered on the district where the work was performed.

Rule 15 provides, in relevant part:

“Section 1 – (a) Overtime –Before and After Basic Day: . . .

When overtime 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 parties agreed to Side Letter No. 10 and a new Letter of Agreement regarding the calling of gangs for overtime service, both dated May 16, 1999. Side Letter No. 10 states, in relevant part:

“In connection with adoption of Wage, Rule, and Benefit Agreement today, it is understood that:

Prior rights, and the seniority that goes with it, shall be applied as being superior to an individual’s relative position on the system seniority roster when an employee is stationed on their prior rights district. Prior rights takes priority in the exercise of seniority, overtime allocation, and preference for receiving vacation or other paid for time not worked.” (Emphasis added)

The new Letter of Agreement, dated May 16, 1999, regarding the calling of gangs for overtime service, replaced a prior Letter of Agreement dated April 15, 1994, and states, in relevant part:

“In connection with adoption of Wage, Rule, and Benefit Agreement today, it was agreed that the following will govern with respect to Rule 15 and the calling of gangs for overtime service:

(a) When overtime service is required, the gang which performed the work during normal working hours will be called first.

(b) If additional personnel is needed, other signal employees will be called in seniority order from the gang (gangs if more than one are

headquartered at the same location) headquartered nearest to the gang outlined above, working on the same district.

(c) If signal forces are still insufficient, additional signal employees will be called, in seniority order from the next closest gang (gangs if more than one are headquartered at the same location) until all gang personnel from that district are called.” (Emphasis added)

The Board recognizes that the parties in Side Letter No. 10 agreed to grant an employee superiority on the system seniority roster when an employee is stationed on their prior rights district. Signalman Eastin, like the Claimant, held seniority on the Rock Island Engineering District, but he was headquartered on the Southwest Services prior rights district. Thus the Claimant was the most senior employee within the Southwest Services prior rights district and the most senior employee on the system seniority roster.

However, the Board further finds that the Carrier properly applied the parties’ Letter of Agreement concerning the calling of gangs for overtime service. That Letter of Agreement, entered into the same day as Side Letter No. 10, applies more specifically to the situation here. The record reflects that the disputed overtime work was work to support the Maintenance of Way tie gang, a continuation of the work that Signalman Eastin’s gang had performed during its regular workweek. Signalman Eastin, therefore, had the right to the work under the Letter of Agreement, notwithstanding Side Letter No. 10, because Eastin was part of the gang that had performed the work during the regular workweek, and the Claimant, although more senior, had not. The Carrier correctly determined here, as in Third Division Award 24890, that the connection to the work gave a superior right over seniority in the allocation of overtime.

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 11th day of January 2011.