

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40833
Docket No. SG-40750
11-3-NRAB-00003-090005**

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 13 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 Saturday, June 4, 2005, and denied the Claimant the opportunity to perform this work. Carrier's File No. 11-28-05. General Chairman's File No. 111-SW-05. BRS File Case No. 13947-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.

During the week prior to the date in dispute, Signal Gang 1, assigned to the Rock Island Engineering District, containing the RI (former Rock Island) CWI (former GM&O) and Southwest Service (former Norfolk & Western) prior rights districts, worked during their regularly scheduled workweek performing crossing renewal at Reagan Road on the Southwest Service prior rights territory. On Saturday, June 4, 2005, an additional employee was required to assist the employees assigned to Signal Gang 1. The Carrier offered this overtime to the senior employee assigned to Signal Gang 7, who worked 13 hours of overtime on June 4, 2005. Signal Gangs 1 and 7 were both headquartered in Blue Island. All employees on both gangs were assigned by bulletin to the Rock Island Engineering District.

The Claimant was assigned to Signal Gang 4 on the Rock Island Engineering District. Signal Gang 4 was headquartered in Manhattan, Illinois, on the Southwest Service prior rights district. Signal Gang 4 was also assigned by bulletin to the Rock Island Engineering District.

The Organization contends that the Claimant was entitled to be called for the Saturday, June 4, 2005, overtime, and that the Carrier violated Rule 15 and the Letter of Agreement for the calling of gangs for overtime service on Saturday, June 4, 2005, by allowing a junior employee headquartered on another prior rights district to work 13 hours of overtime on the prior rights district where the Claimant was headquartered. The Organization asserts that Rule 15 and the Letter of Agreement are intended to ensure that when needed, gang personnel headquartered on the district where work is performed will be called for overtime service. The Carrier contends that there was no violation of Rule 15 or the Letter of Agreement; the Carrier asserts that it was required by the Letter of Agreement to assign the overtime work to the most senior employee from the gang headquartered nearest to Signal Gang 1 and working on the same district.

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)

This dispute arises in part because of the multiple meanings of the term “district.” The parties refer to “districts” in several different contexts. The Carrier has three “engineering districts,” five “prior rights districts,” and six “operating districts.” The Milwaukee Engineering District is identical to the Milwaukee prior rights district, but it contains two operating districts, Milwaukee North and Milwaukee West. The Metra Electric District is a single Operating, Engineering, and prior rights district. The Rock Island Engineering District, of interest here, contains three prior rights districts and three Operating districts. All employees covered by the Agreement hold seniority on a single system seniority roster and are assigned by bulletin to a maintenance territory, Engineering District, on the Carrier’s system.

In this case, the disputed work was performed on the Southwest Service prior rights district where the Claimant is headquartered. The Organization reasons that the Claimant, as the most senior employee on that prior rights district, should have been called for the overtime pursuant to Rule 15 and the Letter of Agreement.

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 his or her prior rights district. Nonetheless, paragraph (b) of the Letter of Agreement provides that when additional employees are needed on overtime to support the gang which performed the work during normal working hours, the additional employees are to be called in seniority order from the gang or gangs headquartered nearest to the gang that performed the work during normal working hours, and working on the same “district.” Signal Gang 1, the gang that performed the work during their

regular workweek, was headquartered at Blue Island, and the employee called to perform overtime to assist them was assigned to Signal Gang 7, also headquartered at Blue Island. Signal Gangs 1 and 7 were bulletined to the Rock Island Engineering District, and both were working on the Rock Island Engineering District. The Carrier assigned the overtime to the Signal Gang 7 employee based on its interpretation that Signal Gangs 1 and 7 were headquartered at the same location and were working on the same (engineering) "district."

The Organization objects that "district" in paragraph (b) of the Letter of Agreement must refer to prior rights districts, and that because Signal Gang 7 had not been working on the Southwest Service prior rights district like Signal Gang 1, the Carrier should have moved on to paragraph (c) of the Letter of Agreement and assigned the work to the Claimant, the most senior employee on the prior rights district. The Carrier contends that the parties' reference to the location of a gang's headquarter point demonstrates that prior rights do not control the allocation of overtime in this situation.

The Organization, as the moving party, bears the burden of proof in this case. The Board finds that the Organization offered no proof that the parties intended to limit the term "district" in paragraph (b) of the Letter of Agreement dated May 16, 1999, to prior rights districts. For this reason, the Board must deny the claim.

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 11th day of January 2011.