

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 41197  
Docket No. SG-40816  
12-3-NRAB-00003-090074

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 D. P. Romaniszak, for 12 hours overtime account Carrier violated the current Signalmen’s Agreement, particularly Rule 26, and Side Letter 10 (dated May 16, 1999), when it used a junior employee instead of the Claimant for planned overtime service on July 31, 2007 (sic), and denied the Claimant the opportunity to perform this work. Carrier’s File No. 11-28-516. General Chairman’s File No. 209-MW-05. BRS File Case No. 14113-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.

The Claimant is a Signal Maintainer on the Milwaukee District headquartered at Roselle. The Claimant also holds prior rights on the Milwaukee District.

On Sunday, July 31, 2005 (a date the Claimant was not scheduled to work) the Carrier assigned overtime to A. Gutierrez for work at a planned crossing renewal project at Church Street in Bensenville on the Milwaukee District. Gutierrez is junior to the Claimant and holds no prior rights on the Milwaukee District. This claim followed.

In Third Division Award 41188 the Board held that Side Letter No. 10 and Public Law Board No. 5565, Award 34 required that for employees stationed on their prior rights district, "[p]rior rights takes priority in the exercise of seniority, overtime allocation. . . ." That same rationale governs this matter. As the senior employee, the Claimant was entitled to the disputed overtime opportunity.

In terms of a remedy, the Claimant shall be made whole for any lost overtime opportunities on the date set forth in the claim. However, if the Claimant earned overtime on that date, those amounts shall be offset against the Carrier's liability.

**AWARD**

Claim sustained in accordance with the Findings.

**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 22nd day of February 2012.