

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41203
Docket No. SG-40868
12-3-NRAB-00003-090166

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 A. J. Ciesla and R. L. Eastin, for 40 hours at the straight time rate and five hours overtime each account Carrier violated the current Signalmen’s Agreement, particularly Rule 15, Side Letter 10 and Letter of Agreement regarding calling of gangs for overtime service, when it used junior employees instead of the Claimants for overtime service from October 17, 2005 through October 21, 2005, and denied the Claimants the opportunity to perform this work. Carrier’s File No. 11-21-537. General Chairman’s File No. 123 RI 05. BRS File Case No. 14162-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 Claimants are members of Signal Gang No. 1 headquartered at Blue Island on the Rock Island District with Monday through Friday work schedules. Claimant Eastin holds prior rights on the Rock Island District. No similar assertion is made for Claimant Ciesla.

During the period of Monday, October 17 through Friday, October 21, 2005, the Carrier assigned employees from Signal Gang No. 2 headquartered at Manhattan and ranked junior to the Claimants to test signal cable on the Rock Island District during normal work hours. The work of the junior employees on the weekdays in question resulted in overtime on those days as they continued to perform that work. The junior employees have the same Monday through Friday work schedule as the Claimants with the same scheduled hours (7:00 A.M. to 3:00 P.M.). This claim followed, with the Organization seeking payment for the overtime performed by the junior employees.

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. . . ." In Awards following that reasoning, the Board upheld claims on behalf of employees who were stationed on their prior rights district and whose prior righted seniority entitled them to perform overtime on days they were not scheduled to work and where junior employees performed overtime on the senior employees' prior righted district.

But that is not this case.

Here, the junior employees – with the same schedules as the Claimants – performed their regularly scheduled work and did so on the days in dispute when the Claimants also performed work. Putting aside the fact that Ciesla does not hold prior rights on the Rock Island District, there is no Rule support for the Claimants to use prior rights seniority to claim overtime performed by junior employees as an extension of the junior employees’ normally scheduled work on the same workday when the Claimants also performed work on the same normally scheduled work days. Under these facts, the Board agrees with the Carrier’s statement in its Submission at Page 7 that “[t]he work was correctly allocated to the employees who performed this work during their scheduled work hours. . . .” Accordingly, the claim must be 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 February 2012.