

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 41827
Docket No. SG-41510
14-3-NRAB-00003-110106

The Third Division consisted of the regular members and in addition Referee Michael Capone 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 Railroad Corp. (Metra):

Claim on behalf of C. L. Cross, for 32 hours at the halftime rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rules 10, 12, 15, 74, and the current Side Letter on Vacancy Relief Positions dated January 1, 2009, when it required the Claimant to not work on a regularly assigned work day for the purpose of avoiding overtime on the dates of October 27, through October 30, 2009, and denied the Claimant the opportunity to be paid overtime per the Agreement. Carrier’s File No. 11-21-741. General Chairman’s File No. 36-ME-09. BRS File Case No. 14492-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.

On November 23, 2009, the Organization filed this claim alleging that the Carrier violated Rules 10, 12, 15, 74, as well as the January 1, 2009 Side Letter on Vacancy Relief Positions, when it required the Claimant to not work his regularly assigned work day in order to avoid paying the Claimant overtime. The Organization stated that the Carrier's actions violated the Agreement when it changed the Claimant's starting times and forced him to "lay off" so as to avoid overtime, as well as other breaches. The Organization asserted that the Carrier unfairly denied the Claimant additional earning potential for the day he was told to stay home.

The relevant contract language applicable to this dispute, which is Section 5 of the above-mentioned Side Letter reads, in pertinent part, as follows:

"In the event the Vacancy Relief employee is required to work more than eight (8) consecutive days at the straight time rate he shall be entitled to an additional $\frac{1}{2}$ time penalty per hour for straight time work each day in addition to any other compensation."

The Board finds that this individual claim was filed on behalf of the Claimant along with three other claims on behalf of different Signalmen dealing with various dates on which they each were denied penalty pay under Section 5 of the Side Letter. This claim is, therefore, a companion to other cases docketed and argued before the Board at the same time. We find that the issues, as well as the claim stated herein, are based on the same alleged violations of the Agreement and are identical to the pertinent facts and arguments presented in Third Division Award 41829. As such, the findings and rationale set forth in that Award are incorporated by reference and adopted here.

Based on the foregoing, the Board finds that the record lacks the requisite substantial evidence that the Carrier violated the Agreement. Accordingly, the instant claim must be denied.

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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 20th day of March 2014.