

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42153
Docket No. SG-41552
15-3-NRAB-00003-110125**

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(
(Northeast Illinois Regional Commuter Rail
(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 O. Ducksworth, for 24 hours at the overtime rate for October 3 and 4, 2009, account Carrier violated the current Signalmen’s Agreement, particularly Rule 15 and the Side Letter dated April 15, 1994, when it failed to properly assign the Claimant and instead assigned a junior employee to work overtime. Carrier’s File No. 11-21-744. General Chairman’s File No. 102-ME-09. BRS File Case No. 14522-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 Signalman headquartered at the Mokena Wire Shop and was assigned to Signal Gang No. 1 under Foreman Kieres. This claim protests the assignment of planned weekend overtime work of following the undercutter at 79th Street on the South Chicago branch of the Metra Electric District, to protect existing cable and repair damaged wires and cable, if needed, to a junior employee working on Signal Gang No. 12 under Foreman Kremer, based on the following language of Rule 15 and the April 15, 1994 Side Letter regarding, Overtime:

**“RULE 15 - Section 1 - OVERTIME -- BEFORE AND AFTER
BASIC DAY**

* * *

When overtime service 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 desire.

APRIL 15, 1994 SIDE LETTER

1. When overtime service is required, the gang which performed the work during normal working hours will be called first.
2. If additional personnel are needed, other signal employees will be called in seniority order, from the gang headquartered nearest to the gang outlined above, working on the same district.
3. If signal forces are still insufficient, additional signal employees will be called, in seniority order, from the next closest gang until all gang personnel from that district are called.”

The Organization asserts that the Claimant was entitled to the assignment based upon the Carrier’s past practice of using straight seniority when assigning planned overtime, referencing a call list that was not included in the record. It takes issue with any contention that the work performed by Signal Gang No. 12 during the prior week was properly categorized as the same project. The Carrier contends

that this was overtime which flowed from the efforts of Foreman Kremer's gang during its regular workweek, because they worked on this project the prior Thursday and Friday, and the overtime was a continuation of such assignment, which is permitted under both Rule 15 and the May 16, 1999 Letter of Agreement (LOA) which replaced the April 15, 1994 Side Letter (but has the same terms). The Carrier asserts that the Claimant has no connection to the work, because he was not part of the "group of employees who customarily work together," and that there is no Agreement Rule requiring it to assign overtime based solely on seniority without regard to gang assignment. It disputes any past practice to that effect, and notes that the Organization failed to prove such established practice that is contrary to the clear and unambiguous language of the Agreement and LOA.

A careful review of the record convinces the Board that the Organization failed to meet its burden to prove a violation of Rule 15 or the Side Letter concerning the assignment of gangs for overtime. The Organization never alleged that the Claimant had any connection to the work, and asserts that it is his superior seniority that entitles him to the overtime assignment. On the other hand, the Carrier has shown that the junior employee assigned to the disputed overtime did have a connection to the work, because his gang had performed service on this project during the previous Thursday and Friday of their regular workweek, and the use of the gang for weekend overtime was a continuation of such assignment. This assignment is in line with both the Rule 15 provision recognizing the propriety of assigning overtime to the "group of employees who customarily work together," as well as the preference for overtime assignment set forth in the Side Letter and LOA, which does not establish a straight seniority-based overtime procedure. Because the Organization failed to present any evidence demonstrating an accepted practice of seniority-based overtime assignment contrary to the plain language of the Agreement and LOA, the claim must be denied. See, e.g. Third Division Award 41824.

AWARD

Claim denied.

Form 1
Page 4

Award No. 42153
Docket No. SG-41552
15-3-NRAB-00003-110125

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 26th day of August 2015.