

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42600
Docket No. MW-43037
17-3-NRAB-00003-150253**

The Third Division consisted of the regular members and in addition Referee Robert A. Grey when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to call and assign I&R Maintenance Foreman R. Strout to perform work protecting freight main line track (flagging) for contractor forces engaged in work boring a pipe under Fairfield Street near Mile Post 117.4 in Oakland, Maine on January 19, 2014 and instead assigned B&B Foreman S. Glasgow thereto (Carrier’s File MW-14-12 STR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R. Strout shall be compensated for fifteen and one-half (15.5) hours at the applicable I&R Foreman overtime rate.”**

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.

Article 10.4 of the Agreement states that “Overtime will be assigned in the following manner” The parties chose to illustrate their intentions with “Agreed-upon Questions and Answers Pursuant to the ST/BMW Agreement of May 8, 2003.” The first three-and-a-fraction pages of the “Questions and Answers” are devoted to “Q1. How is Overtime (Article 10) to be assigned?”

The Board finds that on the facts presented in this record, the Carrier failed to follow the mandatory language of Article 10.4 of the Agreement, and the “Answers” to Question 1 of the “Agreed-upon Questions and Answers Pursuant to the ST/BMW Agreement of May 8, 2003.” By doing so, the Carrier improperly failed to call the Claimant regarding this overtime opportunity, an opportunity for which claimant had seniority and was NORAC-qualified.

The Board is not persuaded by the Carrier’s defenses.

AWARD

Claim sustained.

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 19th day of April 2017.