

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42784
Docket No. MW-43442
17-3-NRAB-00003-160138**

The Third Division consisted of the regular members and in addition Referee Barry E. Simon when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes Division -
(IBT Rail Conference
(
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to call or assign Claimant R. Jones to perform overtime flagging duties between Mile Posts BC 21.4 and BC 22.8 on the St. Louis East Seniority District, Louisville Division on July 4, 5 and 6, 2014 and instead assigned such work to junior employe M. Egbers and Signal Maintainer D. Martin (System File I48410214/2014-174099 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, ‘. . . Claimant Mr. R. Jones (ID #XXXXXX) shall now be compensated for forty-nine (49) hours of overtime and thirteen (13) hours of double time, at each of their respective rates of pay. Also, that all time be credited towards vacation and retirement. ***”**

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 the dates of claim, according to the Organization, the Carrier assigned an employee junior to Claimant to perform flagging work at a road crossing on an overtime basis. It further asserts the Carrier assigned a Signal Maintainer, an employee not subject to the Agreement, to perform maintenance of way work at the road crossing on July 5, 2014. The Organization states this road crossing does not have any crossing protection that would be maintained by a Signal Maintainer. It asks, therefore, that Claimant be compensated for the hours worked by the other employees while he was available to perform this service.

The Carrier denies that flagging work was performed. Instead, it says the employees were simply directing traffic over the crossing, and that such work is not reserved to the maintenance of way craft. Notwithstanding this position, the Carrier asserts Claimant was working at a different location at the time this work was performed. According to the Carrier, Claimant's assigned territory is between BC 87.0 and BC 173.0. It argues he was unavailable to perform the overtime work for that reason.

Our review of the record in this case shows that Claimant was fully employed at a different location when this work was performed. If the work in question was work that Claimant would have otherwise been entitled to be called for, we find that he was not available to perform it. Accordingly, we do not find that the Agreement was violated.

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 28th day of November 2017.