

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 42908  
Docket No. MW-43061  
18-3-NRAB-00003-150297**

**The Third Division consisted of the regular members and in addition Referee George Edward Larney when award was rendered.**

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees Division -  
(IBT Rail Conference  
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(Terminal Railroad Association of St. Louis

**STATEMENT OF CLAIM:**

- “(1) The Carrier violated the Agreement when it assigned junior Truck Operator K. Muraski to operate a truck to perform snow removal work at various locations on January 5, 6 and 7, 2014 instead of calling and assigning senior Truck Operator T. Knopf (Carrier’s File T031014-01 TRR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant T. Knopf shall now ‘. . . be paid 40 hours and 30 minutes overtime at his applicable Truck Operator’s rate of pay’. \*\*\*”**

**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 claim dates in question, January 5, 6 and 7, 2014, a major snow storm, characterized as a Blizzard, enveloped the entire St. Louis metropolitan area resulting in a snow emergency and bringing train traffic to a crawl. Carrier responded by implementing a long-established procedure since at least 1997 in response to emergency snow removal by dividing its Maintenance of Way forces into two, 12-hour continuous duty shifts for Track Department Employees. Carrier explained this procedure is a safety measure taken as an alternative to working Employees on a continuous 24 hour to 48 hour shifts.

The facts associated with this claim are not in dispute. On January 4, 2014, in anticipation of the snow storm, Carrier arranged for Truck Operators to be on the property Sunday morning, January 5, 2014 at 6:00 A.M. to perform snow removal. Claimant Knopf accepted the call at 3:55 P.M. on Saturday, January 4, 2014. On January 5th, the Claimant reported for work at 6:00 A.M. and worked a total of 12 hours and 33 minutes. Carrier then utilized a second 12-hour shift on Sunday, from 6:00 P.M. to 6:00 A.M., Monday morning, January 6th. In anticipation that more snow removal would be needed on Monday, Carrier asked the Claimant if he wanted to work the 6:00 P.M. snow removal shift but the Claimant opted to work his regular first shift job and then worked five additional hours of overtime. On Tuesday, January 7th, the Claimant again worked his first shift regular job and then worked six hours and 25 minutes of overtime.

Carrier refutes the Organization's position it violated the Claimant's seniority by assigning junior Employee Muraski to perform snow removal work instead of calling the Claimant, the Employee with greater seniority than Muraski for the snow removal shifts it operated on January 6 & 7, noting that the senior Employees including the Claimant were utilized first to perform the snow removal work and the junior Employees including Muraski were assigned to work the second 12-hour shift. Thereafter, on both January 6 and January 7, the Claimant opted to work his first shift regular job and then work overtime on each day performing snow removal.

We have thoroughly examined Carrier's assertion that this identical claim arose between the same Parties which was decided in arbitration before Referee Marty Zusman and memorialized in Third Division Award 32183, adopted in August, 1997, and concur in Carrier's position that, that Award is controlling in this case. In effect, the bottom line of that Award establishes that during snow removal emergencies safety

of Employees assigned to the work of snow removal trumps contract provisions such as, for example, establishment of fixed shifts that ordinarily would be applicable to work assignments under conditions other than weather emergencies. Furthermore, Award 32183 noted among other findings that the Organization never before challenged Carrier's procedure of establishing 12 hour shifts due to safety concerns for Employees assigned to snow removal work under emergency conditions which resulted in the claim being denied. In other words, the Organization was found to have slept on its rights nearly 21 years ago and the Board is not about to overturn Award 32183 by contrary findings premised on identical facts and circumstances. Additionally, to be clear, we also find that Carrier did not under the prevailing circumstances as asserted by the instant claim violate the Claimant's seniority rights in any way. Accordingly, we rule to deny the subject claim.

**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 14th day of February 2018.