

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42943
Docket No. SG-43705
18-3-NRAB-00003-160512**

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

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen
(CSX Transportation, Inc.

STATEMENT OF CLAIM:

“Claim on behalf of the General Committee of the Brotherhood that:

Claim on behalf of J. Barnett and J.A. Cofer, for, 62.75 hours each at their time and one-half rate of pay, account Carrier violated the current Signalmen’s Agreement, particularly Rule 14, when, between February 10, and February 21, 2015, it used junior employees instead of the Claimants to work shifts outside their regularly assigned hours for overtime service and thereby denied the Claimants the overtime opportunity. Carrier’s File No. 2015-186216. General Chairman’s File No. 15-08-14. BRS File Case No. 15445-B&O.”

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 Organization filed the instant claim on behalf of the Claimants, alleging that the Carrier violated the current Signalmen's Agreement when it failed to assign certain overtime work opportunities during February 2015 to the Claimants, and instead assigned this work to junior employees. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because Rule 14 provides that overtime service will be assigned to the senior employee, because the employees assigned to the disputed work were assigned to a different territory and were junior to the Claimants, because the Carrier assigned the work to the junior employees under the guise that the Claimants did not desire to perform the work, because the Claimants were assigned to the territory where the work was performed and desired to perform the work, and because the Carrier deprived the Claimants of this work opportunity. The Carrier contends that the instant claim should be denied in its entirety because the Organization has failed to meet its burden of proof, because the Claimants were compensated correctly and in accordance with the Agreement, and because no additional compensation is due.

The parties being unable to resolve their dispute, this matter came before the Board.

The Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier violated the Agreement when it used junior employees instead of the Claimants to work shifts outside of the regularly assigned hours for overtime service and thereby denied the Claimants the overtime opportunity.

The record is clear that the Claimants were senior to the individuals who performed the work. However, the record is also clear that the Claimants that worked a number of hours of overtime in snowy conditions expressed to the Carrier the need for additional employees to be able to do the work in the yard because they were tired of working the overtime. The Claimants verbally requested relief from the excessive overtime and were granted that additional help by the Carrier.

Although Rule 14 states that the senior employees shall have the preference to work the overtime, these employees gave up that preference when they stated that they wanted other employees to handle the work so that they could rest. Rule 14(g) does not require the Carrier to assign employees who are unwilling to perform the overtime work to that work. It states that the senior employees shall have the

preference for such overtime. In this case, the senior employees rejected that preference, and the Carrier fulfilled their wishes. Therefore, this claim must be denied.

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.