

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43083
Docket No. MW-43607
18-3-NRAB-00003-160371**

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 Employees 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 on July 8 and 9, 2014, the Carrier called and assigned junior employee J. Garrett to perform overtime service on the Dewitt Subdivision instead of assigning such work to the Claimant J. Auyer (System File AuyerC.014/2014-172893 CSX).
- (2) As a consequence of the violation referred to in Part (1) above, the Claimant J. Auyer shall now be compensated for nine (9) hours at the applicable overtime 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.

The record before the Board establishes that the Carrier had a need, on the evening of July 8, 2014, to remove trees that had fallen on the right of way during a storm. This work was performed on an overtime basis by Track Foremen C. Kratzer, R. Sherlock and J. Garrett, as well as Track Inspector R. Furner. The Organization argues the Claimant, who was regularly assigned as a Welder, should have been called to perform this work instead of Foreman Garrett, who has less trackman seniority than the Claimant.

The governing rule in this case is Rule 17, which states:

“RULE 17 – PREFERENCE FOR OVERTIME WORK

Section 1 – Non-mobile gangs:

- (a) When work is to be performed outside the normal tour of duty in continuation of the day’s work, the senior employee in the required job class will be given preference for overtime work ordinarily and customarily performed by them. When work is to be performed outside the normal tour of duty that is not a continuation of the day’s work, the senior employee in the required job class will be given preference for overtime work ordinarily and customarily performed by them.
- (b) If additional employees are needed to assist in the work, other employees located within the seniority district will be offered/called in the order of their seniority, in the required job class.”

It is the Board’s conclusion that the work performed was work that would have been ordinarily and customarily performed by Garrett in the job class in which he was working. We cannot say the same for the Claimant. Accordingly, we find that Garrett was not improperly assigned under the Agreement, and the claim on behalf of the Claimant is without merit.

**Form 1
Page 3**

**Award No. 43083
Docket No. MW-43607
18-3-NRAB-00003-160371**

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 2nd day of May 2018.