

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43089
Docket No. MW-43763
18-3-NRAB-00003-160554**

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned junior employe K. Steidl to perform overtime service and operate a work truck on February 14, 2015 on the Great Lakes Division and failed to offer Claimant C. McDonald any preference for such work System File H43603615/2015-183508 CSX).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant C. McDonald ten (10) hours of overtime at his respective 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.

On February 14, 2015 it was necessary to call an employee for overtime work to operate a boom truck in connection with a repair of a broken insulated joint. Employee K. Steidl was called and performed the work. The Claimant, who is senior to Steidl, asserts he should have been called instead.

The Carrier has not denied that the Claimant was the proper employee to call for this work ahead of Steidl. It asserts, however, that he was called and there was no answer. The Claimant, on the other hand, denies he was called and provided his phone records to document this fact. The Organization had asked the Carrier to provide its phone records to show that the Claimant was called. This documentation was not provided.

Based upon the record before the Board, we cannot find that the Claimant was called for the overtime assignment. Thus, we find that the Agreement was violated and the Claimant is entitled to the earnings he would have received had he been used to perform the work.

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 2nd day of May 2018.