

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 43988  
Docket No. 45228  
20-3-NRAB-00003-180747**

**The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when the award was rendered.**

**(Brotherhood of Maintenance of Way Employees Division –  
(IBT Rail Conference**

**PARTIES TO DISPUTE: (**

**(Dakota, Minnesota and Eastern Railroad Corporation**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when the Carrier assigned junior employee C. Asmussen to perform overtime work operating boom truck on various dates beginning on May 24, 2017 and continuing, instead of calling and assigning senior Material Truck Operator J. Manthe thereto (System File B-1715D-203/USA-BMWED\_DM&E-2017-00053 DME).**
- (2) As a consequence of the violation referred to in Part (1) above. Claimant J. Manthe shall now ‘\*\*\* be compensated for all man/hours of overtime and double time rate, as stated earlier in the claim, at the applicable rates of pay,’ (Emphasis in original).**

**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.

At the time the instant dispute arose, Claimant J. Manthe was assigned as a Material Truck Operator. Beginning on May 24, 2017 and on various days thereafter, the Carrier assigned an employee other than the Claimant to operate a boom truck. It is not disputed that the employee so assigned was qualified and that he or she received overtime pay for operating the boom truck.

The Organization filed a claim on Mr. Manthe's behalf on July 22, 2017. The Carrier denied the claim on September 19, 2017. That denial was appealed by the Organization on October 3, 2017, and the appeal was also denied. The matter was then progressed in accordance with the Parties' Agreement and is properly before the Board.

The Organization asserts that the Claimant was the senior qualified employee available to operate the boom truck and should have been called instead of employee(s) who were junior to him. It points out that he performs truck operator duties as part of his regular assignment. Accordingly, it asks that the Carrier reimburse the Claimant for all the hours the boom truck was in operation at the rate of time and one half.

The Carrier protests that the employee who did operate the truck was qualified for the work in question and that the work at issue was sporadic. Moreover, it points out that the work involve was a part of that employee's normal work. The Carrier also notes that the Claimant was fully employed during the times involved and was in no way deprived of work to which he was entitled. Finally, the Carrier insists that the "blanket time sheet" submitted by the Organization in support of its claim is not sufficiently specific to support the Organization's claim.

The Board has reviewed the documentary evidence in this case and is in agreement with the Carrier on this matter. There is no showing that the work at issue was more than sporadic, nor that the Claimant was somehow deprived of overtime work to which he was entitled. Evidence on this record indicates that the boom truck work was a normal part of the work usually assigned to the employee who operated it

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on the dates at issue, and thus, the Claimant was not *per se* entitled to be called for the work in the junior employee's stead.

**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 5th day of March 2020.