

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44323
Docket No. MW-45210
21-3-NRAB-00003-180743**

The Third Division consisted of the regular members and in addition Referee Brian Clauss when award was rendered.

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

PARTIES TO DISPUTE: (
(Connex Railroad LLC

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when, on July 8, 2017, the Carrier assigned junior employee A. Daniels to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110417 CNX).**
 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 16, 2017, to General Manager T. Cochran shall be allowed as presented because said claim was not properly denied per the requirements of Rule 20, Section 1.**
 - (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.**
- (2) The Agreement was violated when, on July 9, 2017, the Carrier assigned junior employee A. Daniels to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110517).**
 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 16, 2017, to General Manager**

T. Cochran shall be allowed as presented because said claim was not properly denied per the requirements of Rule 20, Section 1.

- (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.**
- (3) The Agreement was violated when, on July 22, 2017, the Carrier assigned junior employee A. Daniels to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110217).**

 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 16, 2017, to General Manager T. Cochran shall be allowed as presented because said claim was not properly denied per the requirements of Rule 20, Section 1.**
 - (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.**
- (4) The Agreement was violated when, on August 5, 2017, the Carrier assigned junior employee R. Stuckey to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110317).**

 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 16, 2017, to General Manager T. Cochran shall be allowed as “presented because said claim was not properly denied per the requirements of Rule 20, Section 1.**
 - (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented**

because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.

- (5) The Agreement was violated when, on August 8, 2017, the Carrier assigned junior employee A. Daniels to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110617).**
 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 16, 2017, to General Manager T. Cochran shall be allowed as presented because said claim was not properly denied per the requirements of Rule 20, Section 1.**
 - (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.**
- (6) The Agreement was violated when, on August 9, 2017, the Carrier assigned junior employee A. Daniels to perform overtime work at Mile Post SX 1013.9 on the Connex Seniority District (System File N77110717).**
 - (a) The claim as presented by Vice Chairman N. Trawick, by letter dated August 28, 2017, to General Manager T. Cochran shall be allowed as presented because said claim was not properly denied per the requirements of Rule 20, Section 1.**
 - (b) The appeal as presented by Vice Chairman N. Trawick, by letter dated November 23, 2017, to Vice President B. Bishop shall be allowed as presented because said appeal was not properly denied per the requirements of Rule 20, Sections 1 and 3.**
- (7) As a consequence of the violations referred to in Part (1), Part (1) (a) and/or Part (1) (b) above, Claimant W. Reddick shall be compensated eight (8) hours of overtime at his respective rate of pay.**

- (8) As a consequence of the violations referred to in Part (2), Part (2) (a) and/or Part (2) (b) above, Claimant W. Reddick shall be compensated four (4) hours of overtime at his respective rate of pay.
- “(9) As a consequence of the violations referred to in Part (3), Part (3) (a) and/or Part (3) (b) above, Claimant R. Bazin shall be compensated four (4) hours of overtime at his respective rate of pay.
- (10) As a consequence of the violations referred to in Part (4), Part (4) (a) and/or Part (4) (b) above, Claimant R. Bazin shall be compensated four (4) hours of overtime at his respective rate of pay.
- (11) As a consequence of the violations referred to in Part (5), Part (5) (a) and/or Part (5) (b) above, Claimant W. Reddick shall be compensated four and one-half (4.5) hours of overtime at his respective rate of pay.
- (12) As a consequence of the violations referred to in Part (6), Part (6) (a) and/or Part (6) (b) above, Claimant R. Bazin shall be compensated four and one-half (4.5) hours of overtime at his respective 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 Organization has filed a consolidated claim for six claimants and alleging that the claimants were improperly denied overtime assignments. The Organization further claims that the claim should be sustained because the Carrier did not deny the claim within the timelines of Rule 20(a). The Carrier should now be barred from responding to the claim. Further, the Carrier did not allege never receiving the claims

The Carrier responds that the claim should be denied on the merits.

The Third Division has reviewed the evidence in the instant matter. The record establishes that the claim was submitted to the Carrier. Carrier did not respond within the time requirements of Rule 20. Further, Carrier did not allege that the claim was not received during the on-property handling of the claim.

This Division finds the Carrier did not respond to the claim within the time requirements of Rule 20. By operation of Rule 20, the claims are granted.

Claim sustained in accordance with the Findings.

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 6th day of January 2021.