

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 44586  
Docket No. MW-44387  
22-3-NRAB-00003-200841**

**The Third Division consisted of the regular members and in addition Referee James M. Darby when award was rendered.**

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

**PARTIES TO DISPUTE: (  
(BNSF Railway Company**

**STATEMENT OF CLAIM:**

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

- (1) The Agreement was violated when the Carrier assigned Track Supervisor D. Taylor to perform overtime work on January 18, 2016 and failed and refused to compensate him for such work (System File 526-SLA23-161/14-16-0251 BNS).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant D. Taylor shall be compensated for a four (4) hour call at the applicable 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 January 18, 2016 Carrier Management called the Claimant, a track supervisor, out at 04:30 AM and required him to take his company truck, pick up two employees, (Joel Martinez at Childress, Texas and Travis Mason at Vernon, Texas) and transport them to Wichita Falls, Texas. This required the Claimant to leave his assigned territory and took place outside of the Claimants regular assigned shift. This work required the Claimant to work one and one-half hours of overtime performing this task. The Claimant then returned to his assignment after a break in service and performed his regular assigned duties. The Organization contends that Claimant was required to do this work outside of his regular shifts and that he should have been paid him a four hour call as outlined in Appendix 23, Article IV of the Agreement.

Under the ATSF Agreement, a "track supervisor" is a rank and file employee whose primary duties are to inspect track (on other properties this job is usually referred to as a "track inspector"). Track supervisors on the ATSF territory are paid monthly with normal work periods that can vary from day to day with non-traditional but regularly assigned rest days. Specifically, Appendix 23 provides that track supervisors are not subject to any basic day or overtime provisions except to the extent set forth in the Agreement. In other words, their workday is not limited to eight hours. Pursuant to Appendix 23, Article IV, track supervisors are eligible for overtime only when they perform service on a rest day or holiday or when they are called to perform service not continuous with their normal work period.

BNSF Engineering issued a policy in 1998 that provided Track Supervisors overtime after working 8 hours continuous service but only when they were performing one of eight tasks identified by specific overtime reason codes (including derailments, snowstorms, earthquakes, as well as an "Other" category). In 2001, Engineering updated its policy eliminating the "Other" excepted overtime reason code. In January 2016, BNSF's Timekeeping Department created a system edit that would block the entry of any overtime entered that was continuous with the track supervisors' normal work period and did not meet one of the seven overtime codes identified in Engineering's 2001 Track Supervisor policy.

Thus, the issue presented here is whether track supervisors are entitled to overtime compensation for work performed that: 1) is not associated with their

regularly assigned duties and 2) is outside of, but continuous with, their normal work period.

This identical issue was recently presented to this Board in a series of cases involving these same parties. In those cases, this Board held as follows:

There is no dispute between the parties that a call following a break in service entitles a Track Supervisor to overtime pay. There is also no dispute that a call on a rest day or holiday is also entitled to overtime. The issue in the instant matter involves whether a Track Supervisor is entitled to overtime when doing non-inspection work continuous a work period.

\* \* \*

Appendix 23 recognizes that track supervisor duties are unique. However, the evidence and the record establish that the uniqueness of the position is not all-encompassing. The plain language of Appendix 23 cannot stand for the Carrier's proposition which, in essence, is that all work done that does not fall within the seven casualty codes if it is performed continuous is not eligible for pay. Under the Carrier's analysis, a Track Supervisor could be held for hours doing Track Supervisor duties without compensation. The prior, eliminated casualty code allowed for a Roadmaster to approve assignments that were not within the seven other casualty codes – thereby preserving the uniqueness of the Track Supervisor job while acknowledging that some work is beyond Track Supervisor duties. If there had been abuse, as the Carrier cites as the reason for eliminating the eight casualty code, then there is recourse to discipline employees.

Here, the Organization established that the Claimants were assigned duties that went beyond track inspection duties. They are entitled to be compensated for those additional duties....

*Third Division Award No. 43247, pp. 12-13 (Claus 2018).*

The record here similarly shows that, without question, the Claimant performed driving duties that go beyond those customarily performed by track

supervisors in excess of his regular shift. He is entitled to overtime compensation consistent with Appendix 23, Article IV.

Accordingly, for all these reasons the claim is sustained.

**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 29<sup>th</sup> day of October 2021.