

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 45049  
Docket No. MW-46904  
23-3-NRAB-00003-210868**

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

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

**PARTIES TO DISPUTE: (**

**(Springfield Terminal Railway Company**

**STATEMENT OF CLAIM:**

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

- (1) The Agreement was violated when the Carrier wrongfully assigned Work Equipment Repairman K. Schneider to work overtime in Billerica, Massachusetts, outside of his home System Seniority Zone 9, on the December 24, 2019 holiday of Christmas Eve, without first offering the work to all qualified employees.**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant K. Schneider shall now be compensated five hundred dollars (\$500.00) due to the Carrier’s violation of the Agreement.**

**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 this dispute arose, Claimant, K. Schneider was assigned as a work equipment operator repairman in the Carrier's Work Equipment Sub-Department, regularly assigned to Zone 9, headquartered in Deerfield, Maine. Prior to Christmas 2019, the Claimant had requested and was approved a vacation day for December 26, 2019. He then made plans with his family to leave on a trip with his family right after finishing his tour of duty on December 23, 2019.

On December 23, 2019, the Carrier notified the Claimant that he was being force assigned to perform overtime service outside of his home system seniority zone to work December 24, 2019. In the text notifying him of the assignment, the Claimant's supervisor also noted that refusal to accept the assignment would be considered insubordination. The Claimant complied and worked the day, irrespective of his previously stated family plans.

The Organization filed a grievance on Mr. Schneider's behalf on January 20, 2020. That claimed was denied by the Carrier on March 27, 2020. The denial was appealed by the Organization on May 12, 2020. That appeal was denied, and the matter was then progressed in accordance with the Parties' Agreement. It is properly before the Board for consideration.

The Organization protests that, having given the Claimant permission to take December 24, 2019, as a vacation day, the Carrier was in violation of the Agreement when it then force assigned him to work that day. Moreover, the Organization asserts that it is clear that the Carrier did not offer the work to all qualified employees prior to forcing the Claimant to forego his vacation day. In addition, the Organization notes that there is no evidence on this record that it was facing an emergency situation, as described in the Agreement. Therefore, the Organization concludes, there is no basis upon which the Carrier can justify violating the Agreement. For example, it cites Article 10.4 (b), which specifies "Calls outside of the regular assigned work period will be given to the crew regularly assigned to inspect the applicable territory...all forces within the System Seniority Zone which contains the work involved will be used before other forces are called." In defense of its claim for \$500 pay for the violation and inconvenience caused the Claimant, the Organization notes that the Carrier's actions forced the Claimant to cancel a planned family holiday. Thus, it asks that the claim be sustained in full.

For its part, the Carrier protests that in the Zone in which the necessary repair was required, there is only one Work Equipment Repairman (WER), and he was already working the assignment in question. It further points out that, contrary to the

Organization's assertion, there were no employees junior to the Claimant who were qualified to fill the assignment. Since the Claimant was, in fact, the most junior employee qualified to perform the work at issue, he was force assigned. The Carrier asserts that their action was not in violation of the Parties' Agreement and asks that the claim be denied in its entirety.

The Board has reviewed the documentary evidence in this case with care. It is clear, on careful reading, that the employee whom the Organization felt should have been called instead of Claimant was, in fact not qualified to assist in the technical work of repairing the crane needing repair. Rather he had clearly expressed his preference not to undergo the training necessary to qualify as a WER. In light of that fact, and in light of the Carrier's legitimate argument that, while there was no current emergency, the crane in question needed to be immediately available and in good working order if there were an emergency, we do not find that the Carrier failed to comply with the Parties' Agreement. Accordingly, the instant claim is denied in full.

**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 7<sup>th</sup> day of September 2023.