

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 45539
Docket No. SG-47543
26-3-NRAB-00003-250368

The Third Division consisted of the regular members and in addition Referee Emily Jackson-Hall when award was rendered.

(Brotherhood of Railroad Signalmen
PARTIES TO DISPUTE: (
(Connex Railroad, LLC

STATEMENT OF CLAIM:

“Claim on behalf of Bryan Shelmadine, for compensation of 76 hours at his respective overtime rate of pay; account Carrier violated the Agreement, particularly Rule 14, when Carrier failed to offer a planned overtime opportunity before other employees were used in connection with providing track protection for Maintenance of Way forces on various dates between June 1 through June 25, 2021. Carrier’s File No. VTC-2103, General Chairman’s File No. SCL-08-20-221A, BRS File Case No. 5592, NMB Code No. 308 - Contract Rules: Pay/Allowances/Penalty.”

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 July 8, 2021, the Organization notified the Carrier of a claim filed on behalf of Bryan Shelmadine (Claimant). The Carrier denied the claim via letter on July 29, 2021. The Organization appealed the decision on August 20, 2021. The Carrier denied the appeal on September 21, 2021. The Organization sent a response on October 5,

2021, disputing the Carrier's position and demanding Claimant be paid for 76 hours of overtime. The Carrier responded on December 6, 2021, again denying the claim. The Organization demanded payment for the claim in another letter dated February 23, 2022. The matter then progressed in accordance with the Parties' Agreement, including a telephonic conference on April 29, 2022, after which it remained in dispute. It is properly before the Board for adjudication.

The Claimant was assigned as a Signal Maintainer at Boynton Beach (Job 4). The Claimant's regularly assigned hours are eight-hour days, Monday through Thursday. Signal Maintainer Jared Wells performed flagging services at the Clint Moore Road overpass, which is in the Claimant's territory, during July 2021. Claimant is not qualified or trained to perform flagging duties. Maintainer Wells was trained and qualified to perform flagging duties. He received this training while working at his previous employer, carrier CSX.¹

The Organization alleged that the Carrier violated Rule 14 by using Maintainer Wells to provide track protection for Maintenance of Way (MOW) forces working on an I-95 bridge construction project between July 7 and July 31, 2021, in Claimant's assigned territory. Rule 14(f), "Overtime and Calls," states,

The Maintainer of the assigned territory will be offered the overtime opportunity for planned overtime before other employees are used.

The Organization argues that Rule 14 (f) is clear, requiring the Carrier to give preference to the Maintainer of the assigned territory when planned overtime is offered. The Claimant was the Maintainer assigned to the territory, and therefore should have been offered the overtime before it was given to another employee. The Claimant, according to the Organization, was available to perform the overtime. The Organization argues that the Carrier intentionally chose not to train the Claimant in flagging services. Having failed to qualify the Claimant to perform flagging services, the Carrier denied "[Collective Bargaining Agreement (CBA)] covered work from signal employees" by withholding training from them. The Organization also argues that the Carrier's argument, that flagging services are outside the scope of the CBA, is misleading, as Rule 14(f) requires the Carrier to offer the overtime work to the Claimant before other employees are used.

¹CSX sends junior signalman to training for flagging services. Maintainer Wells no longer works for the Carrier and has returned to work at CSX.

The Carrier maintains that flagging is not a contractual requirement between Transdev Rail, Inc. and the South Florida Regional Transportation Authority (SFRTA), therefore, the Carrier is not required to assign flagging duties as part of the CBA. The Carrier argues that flagging services are outside the scope of the CBA, “and for that reason, the Carrier may assign this type of work to those employees that the Carrier deems are best qualified to perform this task.” The Carrier also argues there is no requirement in the Agreement that the Carrier train any employee outside of their classification for the sole purpose of performing overtime. The Carrier could have contracted this work out to a third party; however, as Maintainer Wells had been trained in flagging duties at his previous job and was qualified to do the work, he was offered the overtime.

The CBA states as follows on the scope of the agreement:

...maintenance work on the Line shall include the repair, inspecting, testing and maintenance (and installation and renewal work where such work is ancillary to maintenance work), of all interlocking systems and devices; signals and signaling systems; wayside devices and equipment for train stop and train control systems; highway grade crossing warning devices and systems; defect detector systems including hot box, acoustic...as well as any other work recognized as signal maintenance work.

The Carrier argues that the CBA Scope does not identify or include flagging responsibilities. None of the Carrier’s employees are trained to perform flagging services, and the Carrier frequently uses a third-party contractor to perform flagging services as needed. Flagging services are infrequently required and involve interaction with third parties, not signal maintenance work. The Organization has never filed a grievance concerning the contracting out of flagging services by the Carrier.

The Board has reviewed with care the evidentiary and testimonial evidence on this record, to include all documents submitted to the Board. While Rule 14(f) requires the Carrier to offer the Maintainer of the assigned territory the overtime opportunity for planned overtime before other employees are used, there is an implicit requirement of present ability to perform the work. Claimant lacks the required training and certification to perform flagging services, and at the time in question, Claimant could not have safely or efficiently performed the necessary tasks. The Carrier was not required to offer overtime to an employee whom it knew could not perform the

necessary duties. Claimant has never been trained in flagging services because it is beyond the scope of the agreement, and the Carrier typically contracts this work out to third parties. Overtime is not a training opportunity, and the Carrier did not violate Rule 14(f) by offering the overtime to a qualified employee.

In this case, another employee had received the necessary training for flagging services at his former job and was offered the overtime because he was qualified to perform it. The Carrier chose to offer the overtime to a qualified employee, rather than contract the work out to a third party. The Carrier did not violate Rule 14(f) by failing to offer the work to the Claimant.

Under the circumstances, there is no basis on this record upon which to overturn the denial of the claim for overtime.

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 27th day of January 2026.