

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 5564

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES)
) Case No. 1
and)
) Award No. 1
NORTHEAST ILLINOIS REGIONAL COMMUTER)
RAILROAD CORPORATION) -

Martin H. Malin, Chairman & Neutral Member
R. C. Robinson, Employee Member
J. S. Morse, Carrier Member

Hearing Date: May 20, 1996

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it called and assigned Trackmen R. O. Tovar and L. O. Alvarez to perform overtime service operating a ballast regulator and endloader, respectively, on October 9 and 10, 1993, rather than calling and assigning Equipment Operators J. F. Teufel and T. P. Petty who were senior, qualified and available to perform such service (Carrier's File 08-27-172).
2. As a consequence of the violation referred to in Part (1) above, Claimants Teufel and Petty shall each be compensated twenty-two (22) hours' pay at their respective time and one-half rates.

FINDINGS:

Public Law Board No. 5564, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

On October 9 and 10, 1993, Carrier called employees Tovar and Alvarez on an overtime basis to operate two machines that were not assigned to any employee. The machines were used in a crossing renewal project at 119th Street on the Rock Island District.

The Organization maintains that Carrier should have called the Claimants because they had greater seniority than the employees who were called. Carrier maintains that the Claimants were headquartered at 179th Street and were performing service on the Southwest Service District, rather than the Rock Island District. Consequently, according to Carrier, it acted in accordance with the Agreement by calling the most senior qualified employees assigned to the Rock Island District. The Organization disputes this, relying on the bulletins for the positions occupied by the Claimants which show the positions as being in the Rock Island District.

This case turns entirely on whether Claimants were performing service in the Southwest Service District or the Rock Island District. We agree with Carrier that Side Letter No. 8 of the Agreement provides for the distribution of overtime that accrues within the respective service districts. In accordance with the Agreement, positions headquartered at 179th Street fell within the Southwest Service District (the former Norfolk and Southern line). Although the bulletins erroneously listed the positions under the heading Rock Island District, the bulletins cannot change the Agreement. In any conflict between the bulletins and the Agreement, the Agreement must control.

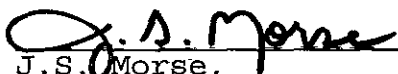
Accordingly, we conclude that Carrier called the most senior qualified employees within the Rock Island District to perform overtime service in the Rock Island District. In so doing, Carrier acted in conformity with the Agreement.

AWARD

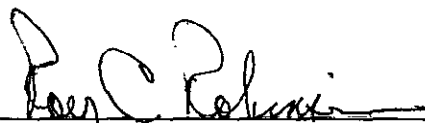
Claim denied.



Martin H. Malin, Chairman



J.S. Morse,
Carrier Member



R.C. Robinson
Employee Member

Dated at Chicago, Illinois, August 29, 1996.