

PUBLIC LAW BOARD NO. 5606

PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
) DIVISION OF THE INT'L BROTHERHOOD OF TEAMSTERS
) 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 assigned a junior trackman instead of senior Trackman Francis J. Michaud to perform overtime service replacing a broken rail and water damage from switches in Rigby Yard on Sunday, October 9, 2005.
2. As a consequence of the violation referred to in Part (1) above, Trackman Francis J. Michaud shall now be allowed four (4) hours pay at the trackman's time and one-half rate. (Carrier File MW-06-02)

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

It is undisputed, as set forth in the Statement of Claim, that a junior trackman instead of the more senior Claimant was called or assigned to perform overtime service on the date at issue, October 9, 2005.

In argument on the property and to this Board the Carrier asserts that it was a Foreman (Mr. Green), a member of the Organization party to the dispute, who is fully versed on proper overtime calling procedures who failed to call Claimant. In this respect, the Carrier says that both it and the Organization have regularly relied upon Foreman Green to make overtime calls and that he has properly done so in the past. Therefore, the Carrier maintains it not be held liable for Claimant not having been called for the overtime work.

In the opinion of the Board, we concur with Organization argument that Foreman Green was acting as an agent of the Carrier when he was told or required to call an employee for overtime service on October 9, 2005. Just as with any Carrier supervisory official, crew caller, dispatcher, etc., who might wrongly call a junior

employee instead of a more senior employee, it must be recognized that in such circumstances they are performing work on behalf of the Carrier and the latter is liable for any violation of rules governing such matters. That the Carrier in its exercise of management prerogative decided to put Foreman Green in the position of being responsible for handling overtime calls did not relieve it of a contractual responsibility to be assured that there is no violation of contractual rules.

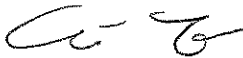
The record supporting a finding that there was a violation of Agreement rules in a failure to properly call Claimant for the overtime work at issue, the claim will be sustained.

AWARD:

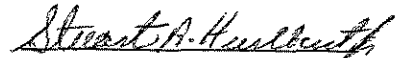
Claim sustained.



Robert E. Peterson
Chair & Neutral Member



Anthony F. Lomanto
Carrier Member



Stuart A. Hulburt, Jr.
Organization Member

North Billerica, MA

Dated 2/5/08