

PUBLIC LAW BOARD NO. 7163

AWARD NO. 68

CASE NO. 68

**PARTIES TO
THE DISPUTE:**

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

vs.

CSX Transportation, Inc.

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied.

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed to call and assign Mr. J. Colvin to perform overtime service [assist in the repair of broken rail at Eighth (8th) Street, in Nashville, Tennessee, located within the Nashville Terminal Seniority District] and instead called and assigned junior employee C. Dowdy (System File 157730408/2009-034250).
2. As a consequence of the violation in Part 1 above, Claimant J. Colvin shall be allowed eight (8) hours at his respective time and one-half rate of pay."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

The instant dispute alleges an out-of-seniority work assignment that occurred on October 26, 2008. The claim and all appeals, however, only cited Rules 4 and 11 in support of the alleged violation. However, neither of those rules establish a preference order for assigning overtime. Rule 4 explains how seniority is established and Rule 11 describes the methods by which overtime is calculated.

Given the state of the record, we must find it to be insufficient to warrant a finding in the favor of the claimant.

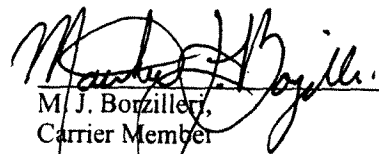
AWARD:

The Claim is denied.


Gerald E. Wallin, Esq., Chairman


Kevin Evanski,
Organization Member

Date: 1-10-11


M. J. Borzilleri,
Carrier Member