

Award No. //
Case No. 75

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:

1. The Carrier has violated the current Scheduled Agreement, addendums and memorandums thereto, when failing to call Claimant M. J. Jordan, senior trackman, but instead called John Demanaczek, junior trackman, for overtime work on the Claimant's regular assigned territory, in violation of Rules 24, 27, and other pertaining rules.
2. Claimant M. J. Jordan be compensated at the appropriate rate of pay for eight hours on May 6, 1978, and for seven and one-half hours on May 7, 1978, for the Carrier's failure to allow his overtime, when being available, qualified, and willing to perform such services.

FINDINGS:

On May 6 and 7, 1978, an employee junior to claimant was used to help repair damage resulting from a derailment in Wilsmere Yard. We are satisfied that an emergency existed on May 6 and that Carrier was

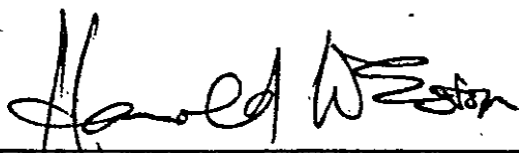
justified in calling the junior man for the work when, according to Foreman Tansley, a call to claimant's regular telephone number met with the response that claimant was not at home.

It was error, however, for Carrier not even to attempt to communicate with claimant in regard to the second day's work. The record does not indicate that the emergency continued into May 7.

The first day's work went on until midnight May 6 and Carrier decided that it was best to utilize the group already on duty when work was resumed on the following morning. That it was convenient to have the junior employe perform the duty on May 7 is clear; however, it was not compatible with contractual commitments to do so. The claim will be sustained for May 7. *H. M. Weston*

AWARD: Claim sustained. To be effective within 30 days.

Adopted at Baltimore, Maryland, February 2, 1983.



Harold M. Weston, Chairman



Carrier Member



Employee Member