

PUBLIC LAW BOARD - NO. 5418

Case No. 25

Award No. 25

PARTIES Brotherhood of Maintenance of Way Employees
to - and -
DISPUTE: Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim for lost wages on behalf of R. J. Berthiaume
which was dated January 29, 1998 for violation of
his rights on January 24, 1998.”

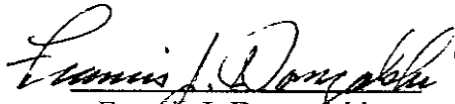
FINDINGS: The issue in this claim involves an overtime call made to a junior employee on date cited in the claim. The Organization contends the claimant should have been called for the 4 AM assignment because he was the senior employee and was available. They assert the claimant has three telephones and an answering machine and he was at home to receive the call. Conversely, the Carrier contends that the dispatcher did call the claimant's home and there was no response. They state they let the phone ring three times and they do not leave a message on a machine because they cannot wait for someone to call back when tracks and switches need attention.

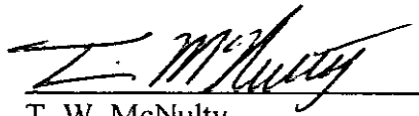
It is axiomatic that a reasonable effort must be made to contact the senior employee on a call list before proceeding to the next employee on the list. When a claim is raised alleging that the most senior employee was not called, it is the Carrier's burden to provide some evidence to show that a reasonable effort was made. In the instant case, the record only contains an assertion that the Dispatcher (T.O.M.) attempted to call the claimant. There is no written statement from the Dispatcher indicating the number he called and the time of day that he called.

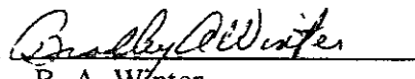
Accordingly, based on the Carrier's failure to meet its burden to rebut the claimant's assertion, this claim will be sustained.

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AWARD: The claim is sustained.


Francis J. Domzalski
Neutral Member


T. W. McNulty
Carrier Member


B. A. Winter
Organization Member

Dated: 3-25-99