

PUBLIC LAW BOARD 5564

In the Matter of Arbitration between:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
DIVISION – IBT RAIL CONFERENCE**

and

**NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD
CORPORATION**

Case No. 75

Award No. 75

THE ORGANIZATION’S STATEMENT OF THE CLAIM

This Decision resolves the Organization’s claim as follows:

1. The Carrier violated the Agreement when it required Mr. G. Ponce to attend a Carrier sponsored skills training session and then refused to compensate him for travel time at his applicable time and one-half rate of pay on March 6, 7, 8, 9, 10 and 13, 2017 (System File 17 03 06/8-2017-4 NRC).
2. As a consequence of the violation referred to in Part 1 above, Claimant G. Ponce shall be compensated nineteen (19) hours at his respective time and one-half rate of pay for travel time on the cited claim dates.

STATEMENT OF THE CASE

Based on the record developed by the Organization and the Carrier, this Public Law Board (Board) finds the Parties herein to be a Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction over the Parties and the dispute.

This dispute is between the Brotherhood of Maintenance of Way Employees Division – IBT Rail Conference (BMWE or Organization) and the Northeast Illinois Regional Commuter Railroad Corporation (Metra or Carrier) (collectively the Parties). The dispute arises out of Metra’s refusal to compensate G. Ponce (Claimant of Ponce) for travel time to skills training sessions.

On March 6 through 10 and 13, 2017, the Carrier assigned Claimant along with 120 other employees to 50-hours off-site instruction on carpentry skills. The training was conducted by the Dawson Institute of Technology at 39th and State Streets, Chicago, Illinois, during Claimant's regular work hours and within the Carrier's six county service territory.

Claimant was compensated with 8-hours straight time for each training day and was provided rail transportation by the Carrier to and from the training session.

On April 28, 2017, the Organization presented a Claim on behalf of Claimant contending that the Carrier violated Agreement Rules 1, 2, 3, and 24 when the Carrier did not compensate him for his travel time to the training. BMWWE asserted that the Agreement required the Carrier to compensate Claimant for travel time at the time and one-half rate as follows: 3-hours overtime each day on March 6, 7, 8 and 9, 2017, and 3¹/₂-hours overtime each day on March 10 and 13, 2017; totaling 19-hours overtime pay.

On June 15, 2017, the Carrier denied the Claim. The Carrier asserted that BMWWE failed to provide relevant facts to support its Claim. The Carrier argued that the additional compensation amounted to a windfall as Claimant was already compensated for the training time and mileage. The Carrier asserted that Rule 24 did not provide for compensation for commuting time to the training and that Rules 1, 2, and 3 were not applicable to the dispute.

On August 6, 2017, BMWWE appealed. In its appeal, the Organization reiterated its allegation of a violation of Rule 24 but denied it had alleged a violation of Rules 1, 2, or 3 in its initial grievance. BMWWE supported its Rule 24 Claim based on the Rule's language that employees attending training "shall suffer no loss in pay." BMWWE requests as Claimant's remedy 19-hours overtime pay totaling \$798.86.

On October 5, 2017, the Carrier denied the appeal. The Carrier maintained that there was no Rule 24 language providing for overtime compensation for travel time to-and-from training as such time is not work or service under the Agreement.

On April 10, 2018, the Claim was conferenced by the Parties but not resolved. The

Claim is now properly before this Board for resolution.

APPLICABLE WORK RULE

RULE 24. TRAINING SCHOOL. Employees covered by this Agreement sent by the Carrier to attend training or orientation schools located outside the Carrier's six county service territory shall be reimbursed for necessary actual expenses for lodging, meals, and travel expenses, supported by receipts, and shall suffer no loss in pay.

For attending training and orientation schools within the Carrier's six county service territory, the Carrier will provide transportation to and from an employee's headquarters point and the school site, or if the employee is willing and uses his personal automobile in lieu of such transportation, the Carrier will reimburse the employee at the standard automobile mileage rate authorized by the Carrier. Such employees shall suffer no loss in pay.

DISCUSSION AND FINDINGS

BMWE bears the burden of proof to show that Metra violated Rule 24 when the Carrier refused to pay overtime pay to the Claimant for travel time to assigned training on March 6 through 10 and 13, 2017. For the reasons stated below, the Board finds that BMWE has not met its burden.

Rule 24 contains no language on overtime compensation. Moreover, Rule 24 by its silence, does not require overtime pay for travel to training. With regard to the instant Claim, the rule requires that employees attending training "shall suffer no loss of pay."

BMWE cites several precedents to support its overtime remedy request which appear to support overtime pay for training travel time. Careful reading of these cited precedents, while similar in subject matter – that is pay for training travel, reveals that the Awards involve different facts and circumstances, and significantly different rules that are not on point with regard to this dispute.

One Award deserves particular comment, Award 17 of PLB No, 5564 (March 31, 2009), involving Metra and BMWE. Award 17 interprets Rule 22, which is worded quite

differently than Rule 24 applicable to this Claim. Rule 22 specifically states, in pertinent part,

(a) The Carrier will provide employees with free transportation in traveling between their headquarters point and their work point, from work point to work point, between their headquarters point and another point, or from one point to another point . . .

(b) Employees will be compensated for travel and waiting time at their straight-time rates during regularly assigned work hours and at the overtime rate during overtime hours.

Rule 22, as addressed in Award 17, specifically concerns point-to-point travel, and the applicable overtime rate during what the Board found to be overtime hours. In the Award 17 dispute, BMW challenged the Carrier's under payment at the straight time rate instead of the overtime rate for travel outside the Claimant's regular assigned hours. Award 17 rejects, as well, the Carrier's distinction of "work" and "service" as regards to training assignments.

In this dispute, the Claimant's training travel time involved commuting to the training assignment by rail from his headquartered point to the training session. While at the training, he was compensated at the straight time rate. He suffered no loss in pay.

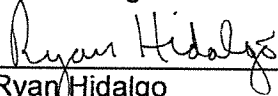
BMW's Rule 24 interpretation is an overreach, and unsupported by the Rule's express language, which improperly stretches the Rule's coverage to commuting time under the express facts and circumstances of this dispute.

For these reasons, the Claim is denied.

AWARD

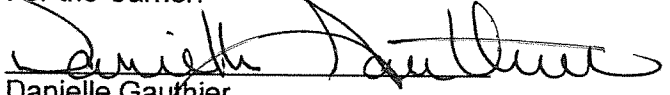
Claim denied.

For the Organization:



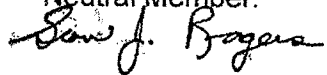
Ryan Hidalgo
Public Law Board Advocate
BMW-IBT

For the Carrier:



Danielle Gauthier
Director - Labor Relations
Metra

Neutral Member:



Sean J. Rogers, Esq.
Sean J. Rogers & Associates, LLC
Leonardtown, Maryland
October 31, 2019