

**PUBLIC LAW BOARD NO. 6297**

**AWARD NO. 1  
CASE NO. 1**

**PARTIES TO  
THE DISPUTE:** Brotherhood of Maintenance of Way Employees

**vs.**

Northern Indiana Commuter Transportation District

**ARBITRATOR:** Gerald E. Wallin

**DECISION:** Claim sustained

**DATE:** January 13, 2001

**STATEMENT OF CLAIM:**

"Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned junior Foreman J. Bohle to perform planned overtime service (crossing renewal) at Michigan City, Indiana on August 22, 1998, instead of Foreman E. Lawson.
2. As a consequence of the violation referred to in Part (1) above, Claimant E. Lawson shall now be compensated for eight (8) hours' pay 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.

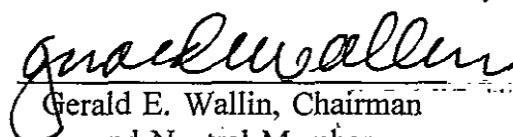
It is undisputed that the junior foreman was allowed to perform track laborer overtime on the day in question. Further, there is no dispute between the parties that overtime work under the scenario in the instant claim is assigned in seniority order.

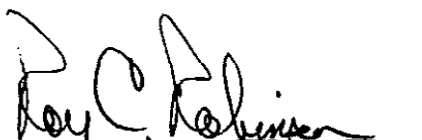
The Carrier's argument is that it should not be held liable for the assignment of overtime work to a junior employee where there was no intentional act to deny the senior employee the overtime work.

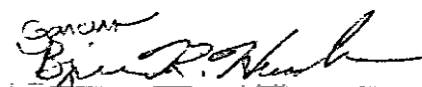
Given the unique nature of this record, we do not find sufficient support for the Carrier's position that it was essentially without knowledge of the circumstances. In light of Carrier's undisputed contractual obligations with respect to the distribution of overtime opportunities by seniority, the Carrier cannot administer its obligation in such a haphazard manner and yet claim innocence as well as lack of responsibility. On this record, we must find that Carrier's handling of the matter facilitated the violation of Claimant's seniority rights. Accordingly, we find that Claimant is entitled to the amount of track laborer overtime worked by the junior foreman.

## AWARD:

The Claim is sustained.

  
Gerald E. Wallin, Chairman  
and Neutral Member

  
Roy C. Robinson, *concur*  
Organization Member

  
Bjørn R. Henderson,  
Carrier Member