

AWARD NO. 155  
Case No. 155

Organization File No. A02802412  
Carrier File No. 2012-116963

**PUBLIC LAW BOARD NO. 7163**

PARTIES ) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION,  
          ) INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
TO )  
      )  
DISPUTE ) CSX TRANSPORTATION, INC.

**STATEMENT OF CLAIM:**

1. The Agreement was violated when the Carrier assigned junior mobile-gang employee D. Renaud to perform non-mobile vehicle operator overtime work in conjunction with track maintenance and repair at Mile Post 93.5 within the Baltimore East End Seniority District of the Baltimore Division on November 27, 2011 without calling and assigning such work to Claimant K. Wheeler.
2. As a consequence of the violation referred to in Part 1 above, Claimant K. Wheeler shall now receive the same amount of hours expended by mobile gang employee D. Renaud, ID#227696, on November 27, 2011, in the amount of (10) hours at his appropriate time and one-half rate of pay in effect on the date claimed.

**FINDINGS:**

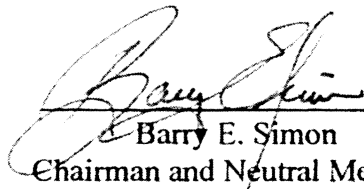
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved herein, and that the parties were given due notice of the hearing held.


It is undisputed that the Carrier, on Sunday, November 27, 2011, had a need for the services of a machine operator to perform track maintenance work at Mile Post 93.5 on the Baltimore East End Seniority District of the Baltimore Division. Mobile-gang employee D. Renaud was used to


perform this work for ten hours overtime. A claim was submitted on behalf of Claimant, who was assigned to the regular non-mobile gang as a machine operator, contending he should have been called to perform this work on his rest day. Claimant is senior to Renaud. The Carrier has asserted that it offered this work to the employees on the non-mobile gang, but nobody accepted it. Consequently, it argues it was free to call other employees to perform the work.

It is well-settled that employees have no right to perform overtime work that was offered to them and rejected. In this case, though, Claimant has denied that he was offered an opportunity to operate the dump truck on this date. As was the case in Award No. 154 of this Board, we are presented with a situation where both parties have asserted conflicting facts. The Board noted, in Award No. 118, that we are unable to resolve such conflicts and must determine whether the party bearing the burden of proof has sufficiently established that there has been a violation of the Rules. We find that the Organization has not.

AWARD: Claim denied.

  
Barry E. Simon  
Chairman and Neutral Member

  
Andrew Mulford  
Employee Member

  
Rob Miller  
Carrier Member

Dated: September 26, 2014  
Arlington Heights, Illinois