

AWARD NO. 162
Case No. 162

Organization File No. B16146512
Carrier File No. 2012-117797

PUBLIC LAW BOARD NO. 7163

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

STATEMENT OF CLAIM:

1. The Agreement was violated when, on February 7, 8 and 9, 2012, the Carrier assigned Foreman R. Strickland to fill a temporary assistant foreman flagging vacancy near Mile Post 00K665.6 in the vicinity of Avalon, Florida and failed to properly offer or assign such work to Claimant P. Reeves.
2. As a consequence of the violation referred to in Part 1 above, Claimant P. Reeves shall now be compensated thirty (30) hours straight time and twenty nine (29) hours overtime for February 7, 8, 9, 2012 at the respective rate Assistant Foreman Flagman (\$24.30).

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.

The Organization presents this claim, asserting that the Carrier improperly assigned foreman R. D. Strickland to fill a vacancy as an assistant foreman flagman during the vacation of the regular incumbent of the position. It argues Claimant should have been used to fill this vacancy because he


is an assistant foreman. According to the Organization, an employee in a higher (foreman) classification cannot be used when there is an employee in an equivalent (assistant foreman) or lower classification available.

We need not address the contractual interpretation issue presented by the Organization. The record before the Board shows that the incumbent was not on vacation on the dates of claim. Rather, he worked his own job and there was no vacancy to be filled. As there is no factual basis for the claim, it must be denied.


AWARD: Claim denied.



Barry E. Simon
Chairman and Neutral Member



Andrew Mulford
Employee Member



Rob Miller
Carrier Member

Dated: April 2, 2015
Arlington Heights, Illinois