

AWARD NO. 188  
Case No. 188

Organization File No. B16152012  
Carrier File No. 2012-129977

**PUBLIC LAW BOARD NO. 7163**

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

STATEMENT OF CLAIM:

1.     The Agreement was violated when, on June 24 and July 1, 8, 22 and 29, 2012 and continuing, the Carrier assigned Welding Department employees A. Buckhalte and J. Gibbons to perform overtime Track Department work such as building road crossing panels and other work in the vicinity Mile Post SX 1004.0 on the Jacksonville Division and failed to assign such to Claimants G. Shipley, L. Boggarne and A. Hernandez, who were the regularly assigned local section team.
2.     As a consequence of the violation referred to in Part 1 above, Claimants G. Shipley, L. Boggarne and A. Hernandez shall now each be compensated for seventy (70) hours at the overtime rate of pay.

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 filed this claim contending that Claimants, who were regularly assigned to a local section gang headquartered at Hialeah, Florida, should have been called to perform overtime work that consisted of building road crossing panels. Instead, says the Organization, the

Carrier utilized two employees from the Welding Department. It asks that Claimants be compensated for the overtime worked by the Welders.

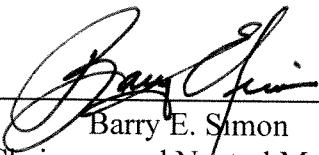
The Carrier claims it had used a number of employees, including Claimants and the two named Welders, on this project during their regular work hours. When overtime was required on the five dates of claim, which were all Sundays, the Carrier says it called the employees who worked on the project in seniority order. The Welders were called for the overtime because they were senior to Claimants, both as Welders and as Trackmen.


As the Board understands this case, the Carrier had a number of employees from different classifications working on a special project to construct track panels for road crossings. Apparently, the Organization took no exception to the fact that Welders were working on this project during regular work hours. It was only when overtime was worked that the Organization argued the work belonged to Trackmen. If there was no objection to Welders performing this work during regular hours, it is disingenuous for the Organization to assert it was no longer their work when overtime applied. The Carrier followed the principle in Rule 17 that the senior employees be given preference for the overtime.


The Board also notes the Carrier has asserted that Claimants “were each offered to work overtime on the project at MP SX1004.0 on the dates in question in accordance with Rule 17.” The Organization did not, during the handling of the claim on the property, offer any evidence to refute this assertion. We conclude, therefore, that the evidence before us does not support the Organization’s contention that the Agreement was violated. As an aside, we note that the Organization proffered a statement from one of the Claimants as part of its submission to the Board. Because the

statement had not been exchanged with the Carrier prior to the docketing of the case, we were not at liberty to take it into evidence over the Carrier's objection. Thus, it was given no consideration in our findings.

AWARD: Claim denied.

  
Barry E. Simon  
Chairman and Neutral Member

 3/31/16  
Andrew Mulford  
Employee Member

  
Rob Miller  
Carrier Member

Dated: February 23, 2016  
Arlington Heights, Illinois