

AWARD NO. 211

Case No. 211

Organization File No. B16157813

Carrier File No. 2013-138778

**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 December 18 and 19, 2012, the Carrier offered preference to and assigned employees R. Gilbert, J. McBryde and B. Averitt to perform overtime Maintenance of Way work of surfacing a road crossing in the vicinity of Mile Post AN 835.4 on the Jacksonville Seniority District.
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Hollerman shall now each be compensated twenty-one (21) hours of overtime at his respective rate of pay.

**FINDINGS:**

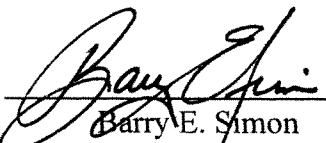
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved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


On December 18 and 19, 2012, the Carrier required the performance of overtime work in connection with the surfacing of a road crossing near MP AN 835.4 on the Jacksonville Seniority District. This work would normally have been performed by Team 6A43, which was on vacation on these dates. Claimant was a member of Team 6A43, as were Machine Operators R. Gilbert and


J. McBryde. Despite the fact that Gilbert and McBryde were on vacation, the Carrier called them to work the overtime. In addition, Machine Operator B. Averitt was utilized at overtime. The instant claim was filed because Claimant, who is senior to Machine Operator Gilbert, was not called for this service.

As we held in Award No. 210, employees on vacation are not entitled to overtime work until they return on the first workday following the vacation. Under this principle, Claimant would not have a claim for not being called for the overtime on these two dates. By the same token, neither would Gilbert or McBryde. If the Carrier chooses to violate this principle, it must do so with consideration given to the employees' relative seniority. Thus, we find that Claimant had a superior right to be called over Machine Operator Gilbert. The failure to call Claimant was a violation of the Agreement and he is entitled to what he would have earned had he been called.

AWARD: Claim sustained. Carrier is directed to comply with this Award within 45 days.

  
Barry E. Simon  
Chairman and Neutral Member

  
Andrew Mulford  
Employee Member

  
Rob Miller  
Carrier Member

Dated: 10/19/16  
Arlington Heights, Illinois