

AWARD NO. 225
Case No. 225

Organization File No. G31810913
Carrier File No. 2013-146615

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 May 6, 2013, the Carrier assigned Welding Department Employees J. Persinger and K. Alderman to perform overtime Track Department work of repairing track in connection with a derailment near Mile Post CA 277.0 on the Clifton Forge Seniority District.
2. As a consequence of the violation referred to in Part 1 above, Claimants A. Seldomridge and A. McKemy shall now each be compensated for seven (7) hours' overtime at their respective rates 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 asserts the Carrier assigned two Welding Department employees to perform overtime Track Department work in connection with an earlier derailment, but did not require them to perform any welding work. Consequently, it argues Claimants should have instead been called.

As was the case in Award No. 218, the Carrier contends it called welders to the derailment site in the event welding would be required. It acknowledges, though, that no welding was required, and does not deny the employees performed Track Department work. The Carrier submits, however, that the emergency nature of the derailment on a critical line constituted an emergency situation. It says all classes of service that would customarily and ordinarily perform work in connection with a derailment were called in for overtime in order to restore the track and prevent further train delays.

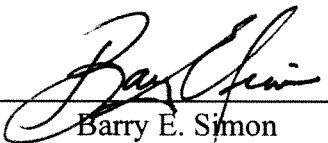
Roadmaster Kenneth Gunter provided the following explanation of the events:

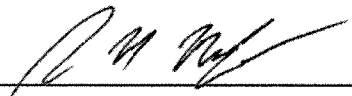
There was a four car derailment on the night of May 05, 2013 at Clifton forge yard that took the whole lead out of service and blocked #2 main line. This was considered an emergency situation. I called all of the basic forces including the welders that customarily and ordinarily take care of this end of the railroad. The welders were called in case there would be any cutting or welding during the restoration of the tracks that were damaged by the derailment. Mr. Mckemy was and still is working an outside party flagging job and is not considered as basic force on the Alleghany sub and Mr. Seldomridge was an AFE Foreman and does not ordinarily perform this type of work over the section crews and therefore was not called, nor was his 2 men that work AFE with him. The basic force foreman was in attendance at the derailment and a second AFE foreman was not needed.


Arbitral boards have regularly recognized the right of a carrier to utilize employees outside of their classification, or to use contractors in lieu of regular employees, when there are emergency situations. We are satisfied that the Carrier has established the existence of an emergency in this case. When forces were called to the derailment site, the welders were called in case they would be needed. Had they been performing welding work, the Carrier says it would have had a sufficient number of Track Department employees on site, so it would not have been necessary to call Claimants to work. The Carrier explains it put the welders to work because they were already at the site and under pay. It is only because of the existence of an emergency that the Board finds the Carrier had not violated the Agreement by using the welders in this manner. In any case, based upon

the statement of Roadmaster Gunter, the Board concludes Claimants would not have been utilized for this work if additional employees were necessary.

AWARD: Claim denied.


Barry E. Simon
Chairman and Neutral Member


Andrew Mulford
Employee Member


Rob Miller
Carrier Member

Dated: 10/19/16
Arlington Heights, Illinois