

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 7163

Brotherhood of Maintenance of Way	)	
	)	
Employees Division, IBT Rail Conference	)	Case No. 291
	)	Award No. 291
and	)	
	)	
CSX Transportation, Inc.	)	

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

1. The claim shall be allowed as presented because said claim was not disallowed by the Carrier’s highest designated officer (HDO) within sixty (60) days after the claim was discussed per Rule 24(b) (System File B16175513/2014-158758 CSX).
2. As a consequence of the violations referred to in Parts 1 and/or 2 above, Claimant C. Illescas shall be paid twenty-seven (27) hours overtime at his respective overtime rate of pay.”

FINDINGS:

This is another claim (see our Award #290) where the Organization argues that the Carrier violated Rule 24(b) of the Controlling Agreement. The Organization contends that the Carrier's highest designated officer failed to notify in writing, whoever listed the claim or grievance (employee or his Union Representative) within sixty (60) days after the date the claim or grievance was discussed of the reason therefore. When not so notified, the claim will be allowed.

The Carrier responds that there was no violation of Rule 24(b). The Carrier's Division Engineer stated that another employee, John Nurrerbern which according to the Carrier did not work any overtime on November 23, 2013 through January 10, 2014. The information was documented by his payroll record. Further, the claim was denied by the highest designated officer on December 19, 2014. The Organization has not shown the Carrier has violated any rule or agreement. The Organization has not met their burden of proof that the Carrier violated any rule or agreement.

The Board has reviewed, in detail, the record before us including the multiple awards the parties have supplied to bolster their position. As in our Case No. 290 the Carrier chose not to respond to the Organization's letter of, in this case dated February 14, 2015. This letter alleges the Carrier violated Rule 24(b). The Carrier's failure to respond to the February 14, 2015 letter is fatal to their argument. The same reasoning as indicated in our Award No. 290, also applies to this case as well. The claim will be sustained. This decision is based on procedural issues only. The Board has not considered the merits of the claim.

AWARD:

Case sustained in accordance with the findings.



Don A. Hampton

Neutral Chairman and Referee



Katrina Donovan

Carrier Member



Andrew M. Mulford

Employee Member

DATED: July 13, 2018