

AWARD NO. 493  
Case No. 493

Organization File No. 2019-20  
Carrier File No. 19-28467

**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, beginning on April 8, 2019 and continuing through May 17, 2019, the Carrier assigned junior employee S. Jordan to perform flagging protection work between Mile Posts Z 88.0 and Z 53.0 on the Florence Service Lane (System File 2019-20/19-28467 CSX).

2.       As a consequence of the violation referred to in Part 1 above, Claimant M. Hensley shall now be compensated for ‘... (240) hours straight time and (150) hours overtime at the respective Assistant Track Forman (sic) straight time and overtime rates of pay. \*\*\*\*’ (Employees’ Exhibit ‘A-1’).

**FINDINGS:**

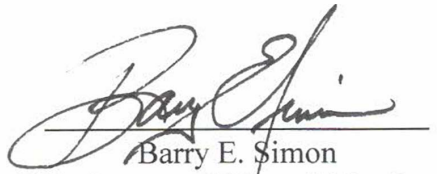
The Board, upon consideration of the entire record and all of the evidence, finds that the parties are Carrier and Employee within the meaning of the Railway Labor Act, as amended, that this Board is duly constituted by Agreement dated March 20, 2008, this Board has jurisdiction over the dispute involved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

The record in this case indicates that the Carrier required an employee to perform flagging work in connection with the T7 Production Tie Gang between Mile Posts Z 80.0 and Z 53.0 on the Florence Service Lane between April 8 and May 17, 2019. The Carrier assigned Machine Operator

S. Jordan to perform this work. The Organization has presented this claim on behalf of Assistant Foreman M. Hensley, who is senior to employee Jordan, arguing that he should have been used for this service on the basis of his seniority.

In denying the claim, the Carrier has relied upon Award No. 54 of this Board. We held, in that case, that the Agreement's requirement that "the senior qualified available employees will be given preference," did not require the Carrier "to assign the work to employees who had not requested it." In this case, however, the record indicates that Claimant had informed management that he was available for all overtime work. This obligated the Carrier to offer this work to him before assigning a junior employee. Its failure to do so was in violation of the Agreement. Claimant is entitled to the compensation he would have earned on this position, less any earnings he had from the Carrier on the dates of claim.

AWARD: Claim sustained in accordance with the above Findings. Carrier is directed to comply with this Award within forty-five days.

  
Barry E. Simon  
Chairman and Neutral Member

  
Ross Glorioso  
Employee Member

  
John Nilon  
Carrier Member

Dated: 1/12/2022  
Arlington Heights, Illinois