

PUBLIC LAW BOARD NO. 7163

**CASE NO. 562
AWARD NO. 562**

Brotherhood of Maintenance of Way Employees Division)	
of the International Brotherhood of Teamsters)	
)	
and)	Arbitration Decision
)	and Award
CSX Transportation, Inc.)	
)	
Carrier File: 20-07724)	
BMWE File: J-20-12-CSX-022)	

I. STATEMENT OF THE CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated by the Carrier when, on March 15, 2020, after normal working hours, at 1918, Supervisor M. Bennett instructed employees J. Szadek, J. McTigue, P. Sokero, S. McCarthey, D. Kurek and R. Szucs, via text message, to wait on his phone call, which was subsequently made just under an hour later at 2014 and failed to compensate them in accordance with Rule 16 of the Agreement for remaining on hold and awaiting instructions and work assignments for the following day (System File J-20- 16-CSX-022/20-07724 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimants J. Szadek, J. McTigue, P. Sokero, S. McCarthey, D. Kurek and R. Szucs shall now be allowed ‘... (2.7) hours for each employee listed above, for a total of (16.2) hours, at the overtime rate of pay, including all benefits and credits due to the Claimants at his assigned rate of pay’ (Employees’ Exhibit ‘A-1’).”

II. FACTS

The COVID-19 pandemic impacted how the Carrier communicated to Claimants on March 15, 2020. At 19:18 hours, after normal working hours, the Carrier’s Supervisor, Mitch Bennett, texted the above group of employees notifying them that, “I will be calling you guys in a little bit for some important update info.” At 20:14 hours, Supervisor Bennett called the employees to update them on the COVID-19 protocols. They were not ordered to report or perform service on the day of text.

All employees involved hold seniority in the Buffalo District of the Albany Service Lane.

III. POSITIONS OF THE PARTIES

Organization's Position

The Organization asserts that when the Carrier's supervisor texted the Claimants indicating he would be calling them shortly and then called them almost an hour later to inform them about COVID protocols and their assignments for the next day, they should have been compensated at 2.7 hours of overtime pay for the time they waited for the call, pursuant to Rule 16 of the CBA and subsequent Memorandums of Agreement.

Carrier's Position

The Carrier asserts that there was no violation of Rule 16. It states that although the supervisor called each Claimant to inform them of the following day's instructions and work assignments, they were under no obligation to answer their phones or perform any service and that none of the Claimants were prevented from engaging in any off-duty activities. The motivation for calling the claimants after hours was to avoid a group meeting at the end of the shift, which would have potentially exposed them to COVID-19.

IV. DECISION

The burden of proving a violation of the Agreement is on the Organization. The Board has carefully reviewed the record, inclusive of the applicable rules and established facts, and finds that the Organization failed to meet its burden of proof that a violation occurred. The texts sent to the claimants was not an instruction to perform service. The claimants were not instructed to wait for a call. The supervisor was motivated to contact the claimants due to the efforts to avoid physical contact with each other during the COVID-19 pandemic. The call to the Claimants was just 8 minutes in length and discussed COVID-19 protocols for the next day. The Board finds that this call did not trigger Rule 16 and no overtime was due and therefore concludes that the Carrier did not violate Rule 16 as alleged. This decision is limited to the facts of this case and is not meant to be precedent-setting.

V. AWARD

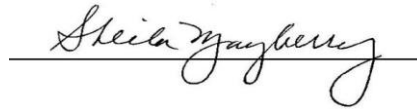
The claim is DENIED.

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Casey Summers
Organization Member

Handwritten signature of John Ingoldsby in cursive script, positioned above a horizontal line.

John Ingoldsby
Carrier Member

Handwritten signature of Sheila Mayberry in cursive script, positioned above a horizontal line.

Sheila Mayberry, Chair and Neutral Member
December 13, 2024