

**PUBLIC LAW BOARD NO. 7163**

**CASE NO. 575**

**AWARD NO. 575**

<b>Brotherhood of Maintenance of Way Employees Division</b>	)	
<b>of the International Brotherhood of Teamsters</b>	)	
	)	
<b>and</b>	)	<b>Arbitration Decision</b>
	)	<b>and Award</b>
<b>CSX Transportation, Inc.</b>	)	
	)	
<b>Carrier File: 20-56945</b>	)	
<b>BMWE File: NAS410519</b>	)	

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**I. STATEMENT OF THE CLAIM**

**“Claim of the System Committee of the Brotherhood that:**

1. The Carrier violated the Agreement when, on and between the dates of November 5, 2019 and November 8, 2019, it assigned Machine Operator T. Anderson to perform vehicle operator duties (transporting a BMWED-represented employee who was piloting Maintenance of Way equipment that was operating between Mile Post 000 196.6 and Mile Post 000 176.6) on the Nashville Terminal Seniority District, Nashville Division and failed to assign employees J. Jones and K. Ray thereto (System File NAS410519/20-56945 CSX).
2. As a consequence of the violation referred to in Part 1 above, Claimants J. Jones and K. Ray shall now be ‘... compensated for fifty-four (54) hours of overtime at their respective overtime rates of pay, divided equally between the Claimants. Also, that all time be credited towards vacation, holiday and retirement. \*\*\*’ (Employees’ Exhibit ‘A-1’).”

**II. RELEVANT CONTRACT ARTICLES AND RULES**

RULE 17 - PREFERENCE FOR OVERTIME WORK, Section 1.(a) and 1.(b)

**III. FACTS**

On and between the dates of November 5, 2019, and November 8, 2019, two of the Organization's witnesses saw T. Anderson (T.A.) drive employees to and from the Nashville Terminal District, Nashville Division. The Organization calculated that T.A. worked fifty-four (54) overtime hours in the performance of these duties.

The Claimants are senior employees in the Carrier's Maintenance of the Way Department during the relevant time period, and assigned as vehicle operators headquartered in Nashville, Tennessee at the Nashville Terminal Seniority District.

On December 19, 2019, the Organization filed a claim alleging that the Carrier's assignment of T.A., a machine operator, to perform vehicle operator duties violated the CBA because the Claimants, who are vehicle operators, were not assigned the overtime work of transporting employees to and from the Rail Grinder in the Nashville Division during the relevant time frame.

The evidence provided by the Organization included a witness statement signed by two employees who saw the machine operator driving the employees. Neither the Claimants nor the Organization provided any information about their work status during this time frame and whether they were available for the overtime assignment.

#### **IV. POSITIONS OF THE PARTIES**

##### **Organization's Position**

The Organization contends that the Carrier violated the Agreement when it assigned Machine Operator T.A. to perform overtime vehicle operator duties (transporting employees represented by the Organization who were piloting Maintenance of Way equipment) on and between November 5, 2019, and November 8, 2019, and failed to call and assign the Claimants to perform the work. The Organization argues that the Claimants were entitled to the overtime work by virtue of their Vehicle Operator seniority in the Nashville Terminal Seniority District,

Vehicle Operator assignments, availability, and qualifications. The Claimants ordinarily and customarily perform Vehicle Operator duties while T.A. ordinarily and customarily operates machinery. They assert that at no time during this violation did T.A. operate machinery.

#### Carrier's Position

The Carrier argues that T.A. was not working as a vehicle operator on the relevant dates, rather he was filling a temporary trackman vacancy supporting the Rail Grinder. It explains that many classifications drive pickup trucks in the performance of their daily jobs or tasks and this work is not solely reserved for the vehicle operator classification.

The Carrier explains that T.A. was senior to the Claimants and all three employees worked in higher-rated positions during the time in question. It asserts, therefore, that T.A. was properly given preference to fill the vacancy. The Carrier notes that there were no trackman positions on the Nashville Terminal, and no one was working in a lower-rated position or class. T.A. was qualified, available, and senior to the Claimants, therefore he was given preference to fill the temporary vacancy.

The Carrier also contends that there was no evidence presented to prove conclusively that the Claimants lost any work opportunity. It claims that they were fully employed at the time of the alleged violation. It asserts that the Organization has presented no evidence to prove the Claimants could have performed the work at another time or on an overtime basis. Therefore, the Claimants suffered no loss of earnings and had no basis for consideration of a remedy.

#### **V. DECISION**

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

The Board finds that the claimed overtime work on the relevant days supported the Rail Grinder, which was not exclusively vehicle operator work. T.A. was the senior employee, qualified, and available. Furthermore, there was no evidence that the Claimants were not already performing their duties and were actually available for the overtime work. Therefore, the Board finds no violation of the Agreement.

## VI. AWARD

The claim is DENIED.



Casey Summers  
Organization Member



John Ingoldsby  
Carrier Member



Sheila Mayberry, Chair and Neutral Member  
December 13, 2024