

BEFORE PUBLIC LAW BOARD NO. 7566

CASE NO. 187

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

DIVISION – IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

Carrier's File WC-BMWED-2018-00036

Claimant: B. Williams

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Rules 1 and 13 of the Agreement when it supplanted its existing workforce in an effort to deny an overtime work opportunity for Mr. B. Williams by assigning non-agreement employees, employed by Associated Constructors, to perform the duties of snow plowing in around Ishpeming Yard at Ishpeming, Michigan, beginning sixty (60) days retroactive from December 6, 2018 (Carrier's File WC-BMWED-2018-00036 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant B. Williams shall now be allowed pay at the applicable rate of pay for an equal proportionate share of all overtime man-hours worked by the non-agreement employees.”

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier or employee within the meaning of the Railway Labor Act as approved June 21, 1934.

Public Law Board 7566 has jurisdiction over the parties and the dispute involved herein.

The Organization maintains that numerous Rules govern this claim. Rule 1 provides for the Scope of work and recognizes that that work generally recognized as Maintenance of Way work would remain Maintenance of Way work. The work at issue was usual and customary work and therefore the work of the Maintenance of Way

employees. Rule 13K provides that the Carrier cannot change the work generally recognized as belonging to Maintenance of Way employees, yet the Carrier did. Rule 13L provides the expectations of the parties and what must be met by the Carrier. Rule 13M prohibits supplanting overtime opportunities for Maintenance of Way employees.

The Organization claims that Organization-represented forces were available to perform this snow plowing work. Instead of Claimant, the Carrier used a contractor, Associated Constructors, to perform the duties of snow plowing during the Claimant's off hours and rest days which is an ordinary and customary duty of the Claimant. The Organization maintains that the Carrier defense is not persuasive. The question is whether Organization forces were available and had customarily performed this work.

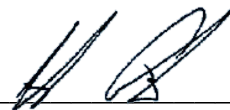
The Carrier responds that the claim should be denied because the Organization has failed to prove a claim for which relief should be granted. The Carrier did not violate the Agreement when it assigned outside forces to perform the snow removal work.

The evidence shows that the Claimant was available to perform this snow plowing work and that he had previously performed the work during overtime. Claimant should have been offered the overtime opportunity and not outside contractors.

Claim sustained. The Carrier is directed to comply with this Award on or before thirty (30) days following the Award date below.



Patrick Crain
Carrier Member



Adam Gilmour
Organization Member



Brian Clauss
Neutral Member

Dated: December 20, 2023