

PUBLIC LAW BOARD NO. 7566

BROTHERHOOD OF MAINTENANCE)
OF WAY EMPLOYES DIVISION)
IBT RAIL CONFERENCE)
and)
CANADIAN NATIONAL/WISCONSIN)
CENTRAL LTD.)

Case No. 24
Award No. 24

Claimants: R. Nichols
T. Maug
D. Weber
T. Kalz
E. Bratanich

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Rule(s) 1 and 13 of the Agreement when it supplanted its existing workforce in an effort to deny an overtime work opportunity for the Claimants, by assigning non-agreement employees to perform the Maintenance of Way work of surfacing track located on the mainline on the Whitehall Subdivision on May 31 and June 1, 2011 (System File WC-BMWED-2011-00022).
2. As a consequence of the violation referred to in Part 1 above, the Organization requests Claimants be compensated an equal and proportionate share of all straight time and overtime hours worked by the non-agreement employees on the claim dates for their loss of work opportunities.

Findings:

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.

Parties to said dispute were given due notice of hearing thereon.

The Organization contends that the Carrier used a subcontractor to perform work that should have been performed by the Claimants. Claimants were improperly denied the overtime opportunity.

The Carrier responds that the Claimants were working their assignments and receiving overtime pay when the subcontractor was working. It was not improper to use the subcontractor and the Claimants were not on their off hours and therefore not entitled to the work.

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The provisions of Rule 13 provide the Carrier can use subcontractors without notice as long as it does not supplant the work of existing forces or occur on off hours or rest days "in an effort to deny the existing workforce overtime opportunities."

The burden is on the Organization to establish a violation. The evidence indicates that the Claimants worked and received overtime on the claimed dates. Carrier has the right under the Rule to use outside forces if it does not supplant the existing forces. The evidence does not show a violation of Rule 13.

Claim denied.

Award:

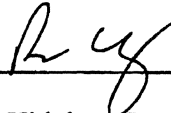
Claim denied.



Brian Clauss, Chairman



Cathy Cortez, Carrier Member



Ryan Hidalgo, Organization Member

Signed on November 10, 2015