

BEFORE PUBLIC LAW BOARD NO. 7566

CASE NO. 267

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BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

DIVISION – IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

Carrier's File WC-BMWED-2019-00026

Claimant: B. Wardas et al.

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STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it assigned employees B. Simpson and J. Manick, who were assigned to welder and welder helper positions, respectively, to perform the duties of snow removal on the Rainy Subdivision at and around Mile Post 165, instead of assigning Messrs. B. Wardas and A. Wolden thereto on February 4 through 6, 2019 (Carrier's File WC-BMWED-2019-00026 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimants B. Wardas and A. Wolden shall now be compensated for a total of twenty-four (24) hours each, at the applicable time and one-half and double time rates of pay, at the applicable Headquartered Foreman and Trackman/CDL rates of pay for the lost work opportunities on February 4 through 6, 2019.”

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 the Carrier violated the Agreement when it assigned a welder and welder helper to perform snow removal work. The two employees were headquartered eighty-nine miles from the work. Claimants were senior to the two

employees, ordinarily performed the work, and should have received the overtime opportunity.

The Carrier responds that Claimants were working overtime on February 4, 2019, due to a snowstorm. They left without checking to see if there was additional continuous overtime due to the snowstorm. It was common knowledge that there was overtime available for those that were willing to stay for it. These Claimants left without staying for additional overtime with the supervisor. They were not released and simply left with the gang. The Organization does not dispute that Claimants knew to ask about continuing overtime but declined inquiring about the opportunity to work it. Claimants could have worked the overtime, but chose not to work it.

The Organization must provide substantial evidence supporting the elements of the claim. Here, the Organization has established that Claimants were senior to the employees who performed the work. However, the Organization cannot establish that Claimants were available for the overtime. The Carrier has established that Claimants left with the gang. The evidence shows that the employees were aware of the continuing snow removal overtime and chose not to work it.

Claim denied.



Adam Gilmour  
Organization Member



Steven Napierkowski  
Carrier Member



Brian Clauss  
Neutral Member

Dated: December 18, 2024