

BEFORE PUBLIC LAW BOARD NO. 7566

CASE NO. 271

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

DIVISION – IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

Carrier's File WC-BMWED-2019-00018

Claimant: J. Borich

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed to assign Mr. J. Borich to perform the duties of operating the AFl Blower Truck in the Proctor Yard on the Missabe Subdivision beginning on January 27, 2019 at 1900 hours and continuing through January 28, 2019 at 0700 hours and instead assigned employee G. Wenner thereto (Carrier's File WC-BMWED-2019-00018 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Borich shall now be compensated for twelve (12) hours at the applicable time and one-half rate of pay, at the applicable Machine Operator A-AF1 Blower Truck rate of pay for the lost work opportunity on January 27 and 28, 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 claims the Agreement was violated on January 27 and 28, 2019 when the Carrier failed to assign Claimant the overtime assignment on the AFl Blower Truck in the Proctor Yard on the Missabe Subdivision. The Organization claims that an employee with less seniority was assigned to the AFl blower truck.

The Carrier maintains that the morning calls on Friday, January 25, 2019, included an offer of weekend overtime to all employees on the call. Because Claimant did not indicate availability, and a junior employee said he could work the weekend, the junior employee was given the overtime assignment.

Agreement Rule 22D provides, in relevant part:

OVERTIME Section 1. Compensation

D. Work in excess of forty (40) straight time hours in any workweek shall be paid for at one and one-half times the basic straight time rate except where such work is performed by an employee due to moving from one assignment to another.

* * *

Section 3. Preference for overtime work.

A. When work is to be performed outside the normal tour of duty and not in continuation of the day's work, the senior active employee in the required job class in the assigned gang will be given preference for overtime work ordinarily and customarily performed by them.

Section 3 of Rule 22 is clear. The Rule provides that the senior employee in the job classification, in the assigned gang, receives preference for overtime work. Claimant is senior to the employee who received the overtime work. Claimant is in the required job class and in the same gang.

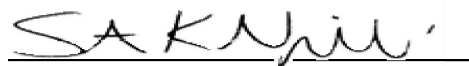
An unrefuted statement from Claimant detailed the morning call. During the call, not specific overtime was offered and a manager merely asked "if people were going to be around this weekend." Although the Carrier claims this is an efficient process, it is not the Agreement process for overtime.

Claimant should have been offered the overtime. Claimant was not called.

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



Adam Gilmour
Organization Member



Steven Napierkowski
Carrier Member



Brian Clauss
Neutral Member

Dated: December 18, 2024