

BEFORE PUBLIC LAW BOARD NO. 7566

CASE NO. 274

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BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

DIVISION – IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

Carrier's File WC-BMWED-2019-00024

Claimant: R. Hughes

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STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier failed to assign Mr. R. Hughes to perform the duties of snow removal on the Superior Subdivision in the Pokegama Yard on January 21, 2019 at 1900 hours and continuing until 0700 hours on January 22, 2019 and instead assigned employee P. Cournoyer thereto (Carrier's File WC-BMWED-2019-00024 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant R. Hughes shall now be compensated for twelve (12) hours at the applicable time and one-half and double time rates of pay, at the applicable Machine Operator B rate of pay for the lost work opportunity on January 21 and 22, 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 Claimant was assigned and working as a Machine Operator B-Dump Truck headquartered at Superior, Wisconsin, on the date the overtime occurred. He was qualified and available to perform the snow removal work that he usually and customarily performs. Instead, a junior employee was offered and worked the

overtime despite Claimant being the senior active employee in the required job class. Claimant should have been offered the overtime.

The Carrier maintains that the overtime was offered on a conference call and Claimant did not indicate interest. Further, even if Claimant was interested and available, Claimant was unable to obtain the needed track protection. The assigned employee was able to get track protection.

The Organization responds that track protection was not necessary because the Snowfighter machine was never used during the overtime period. Because the Snowfighter was not used, track protection was not necessary. The Carrier replies that Snowfighter work was anticipated when the overtime was planned. The Carrier needed track protection when the overtime was planned. Claimant could not obtain protection.

The Organization must provide substantial evidence supporting the elements of the claim. Here, the Organization has established that junior employees received the overtime. The Claimant's statement indicates a supervisor informed him that the employees who received the assignment could obtain track protection. Although Claimant's statement indicates that he thought the work belonged to him because the work was performed in the yard, he did not indicate that he could obtain track protections. As the Claimant's statement also notes, the employees were selected for the Snowfighter in anticipation of a snowstorm. Whether the storm occurred is not relevant to the analysis because the anticipated snowstorm is what guided the Carrier actions.

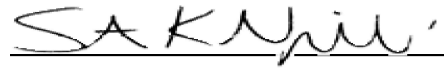
The Claimant has not established that he could obtain the required track authority to operate the Snow fighter.

Claim denied.



Adam Gilmour

Organization Member



Steven Napierkowski

Carrier Member



Brian Clauss

Neutral Member

Dated: December 18, 2024