

PUBLIC LAW BOARD NO. 7566

BROTHERHOOD OF
MAINTENANCE
OF WAY EMPLOYEES DIVISION
IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

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Case No. 51
Award No. 51

Claimant J. Burclaw

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

1. The Carrier violated Rule 22 of the Agreement when it failed to call and assign Claimant J. Burclaw to perform overtime Section Trackman-CDL duties of clearing frozen switches on the Superior Subdivision around Stevens Point, Wisconsin on February 2 and 3, 2013 on the Superior Subdivision (Carrier's File WC-BMWED-2013-00005 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant J. Burclaw shall be compensated twelve (12) hours' pay at his respective time and one-half rate of pay."

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.

Claimant has a headquartered position as a section trackman. Employee Augustin is a Mobile Machine Operator B and assigned to a speed swing. On February 2 and 3, 2013, Claimant was not called in for overtime work clearing frozen switches whereas Employee Augustin was called in for overtime work.

The Organization argues that Claimant should have been assigned the work pursuant to

Rule 22 Section 3A. The Carrier responds that Employee Augustin was called in for a speed swing position to replace an employee who had worked 11 hours. Because he was the regularly assigned employee, he had the right to the overtime as provided for in Rule 22 which states:

Rule 22 Section 3 A provides:

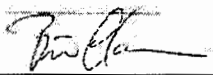
When work is to be performed outside the normal tour of duty and not in continuation of the day's work, the senior active employee in the required job class in the assigned gang will be given preference for overtime work ordinarily and customarily performed by them.

The burden is on the Organization to establish a violation of the Agreement by assigning the overtime to employee Augustin and not to Claimant. The Organization has met the burden.

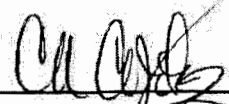
A review of the record and the submissions indicates that Employee Augustin was in a mobile assignment as a speed swing machine operator while Claimant was working a headquartered assignment assigned as a section trackman. The work being performed was freeing frozen switches and that work was regularly and customarily performed by trackmen and not by machine operators in mobile assignments.. The record is clear that the work was limited to clearing frozen switches and that Claimant had previously done that type of work. It is undisputed that there was no speed swing machine operator work being done and Employee Augustin was clearing switches.

A review of the record indicates that Claimant should have been assigned to overtime work of clearing the frozen switches. There is no support for the Carrier's blanket assertion that the overtime was properly assigned to Employee Augustin and not to Claimant.

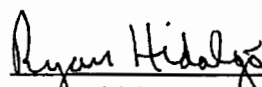
Claim sustained.



Brian Clauss, Chairman

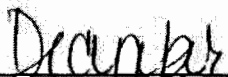


Cathy Cortez, Carrier Member



Ryan Hidalgo, Organization Member

Signed on

 31, 2016