

PUBLIC LAW BOARD NO. 7599

**AWARD NO. 112
CASE NO. 112**

**PARTIES TO
THE DISPUTE:** Brotherhood of Maintenance of Way Employees Division
IBT Rail Conference

vs.

Grand Trunk Western Railroad Company

ARBITRATOR: Gerald E. Wallin

DECISION: Claim sustained

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

1. The Carrier violated the Agreement when it failed to compensate Mr. S. Martinez one (1) hour and twenty (20) minutes at the time and one-half rate of pay for each day worked as a production gang foreman commencing on October 9, 2019 and continuing (Carrier's File GTW-BMWED-2019-00017 GTW).
2. As a consequence of the violation referred to in Part 1 above, Claimant S. Martinez shall now be compensated one (1) hour and twenty (20) minutes incentive compensation at the time and one-half rate at his respected hourly rate of pay for each day worked as a production gang foreman commencing on October 9, 2019 and continuing."

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

According to the claim, Claimant was the foreman of a System Production Support Gang assigned to picking up ties left along the right of way by the previous work of a System Production Tie Gang. However, he was not paid the 1:20 of daily incentive compensation due his position in violation of Rule 16 Section 1(a).

In addition, the claim alleges the Claimant was instructed to charge his time to "Production" work in the payroll system. The Organization requested all pertinent Carrier records related to the claim. No such records were

produced for review by us.


The Carrier contends that Claimant was filling a Mobile Foreman position that did not constitute Production Support.

After thorough review of the record, we find the Organization and Claimant have significant Agreement support for their position whereas the Carrier's position lacks such Agreement support. Therefore, the claim is sustained.

AWARD:

The Claim is sustained in accordance with the Findings. The Carrier is directed to comply with this Award within thirty (30) days of the date shown below.


Gerald E. Wallin, Chairman
and Neutral Member


John Schlismann,
Organization Member


Patrick Crain,
Carrier Member

Date: 20 Mar 2023