

PUBLIC LAW BOARD 6430

Award No. 15

Case No. 15

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Union Pacific Railroad Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned Section foreman L. R. Gillis to perform overtime service (stress relief in the track) at Mile Post 367.60 on the LaGrande Subdivision on Friday, August 28 and Saturday, August 29, 1998, instead of calling and assigning regularly assigned Track Subdepartment Welder P. D. Powell to perform said work (System File J-9835-60/1163139).

2. As a consequence of the violation referred to in Part (1) above, track Subdepartment Welder P. D. Powell shall be allowed six (6) hours' pay at his time and one-half rate and two (2) hours' pay at his double time rate for the total number of man-hours expended by Track Foreman Gillis in the performance of the work in question.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds and holds as follows:

1. That the Carrier and the Employees involved in this dispute are, respectively, Carrier and Employees within the meaning of the Railway Labor Act, as amended; and

2. That the Board has jurisdiction over this dispute.

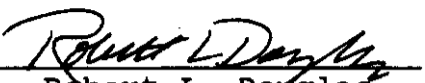
OPINION OF THE BOARD:

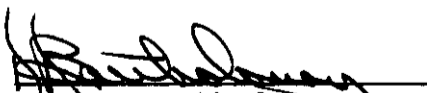
The record indicates that the Claimant regularly performed the disputed work during his regular hours of work and on overtime as well. The Carrier failed to contact the Claimant by the means

that the Carrier had available to contact the Claimant for the purpose of offering the Claimant an opportunity to accept the additional overtime work assignment. The record omits any basis to absolve, excuse, or relieve the Carrier from the requirement under these particular circumstances to have contacted the Claimant in a timely manner to determine the Claimant's interest in performing the disputed work. In the absence of any justification in the record for the Carrier's failure to contact the Claimant by the available means of communication, the Claim is sustained.

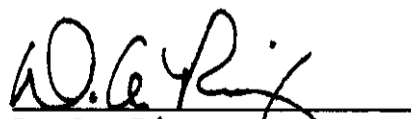
AWARD:

The Claim is sustained in accordance with the Opinion of the Board.


Robert L. Douglas
Chairman and Neutral Member


D. B. Bartholomay
Employee Member

Dated: 9/9/2002


D. A. Ring
Carrier Member