

SPECIAL BOARD OF ADJUSTMENT 1016

Award No. 174
Case No. 174

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned Mr. M. West to perform rail grinder piloting duties from Mile Post 10.3 to Mingo Junction on January 19, 1997 instead of calling and assigning Foreman J. **O'Hara** to perform said work (System Docket MW-4715).
2. As a consequence of the violation referred to in Part (1) above, Claimant J. **O'Hara** shall be allowed thirteen (13) hours' pay at his time and one-half overtime rate.

FINDINGS:

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

1. That the Carrier and the Employee involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as amended,; and
2. That the Board has jurisdiction over this dispute.

OPINION OF THE BOARD:

Rule 17 (Preference for **Overtime** Work) provides, in pertinent part, that:

Employees will, if qualified and **available**,
be given preference for overtime work,
including calls on work ordinarily and
customarily performed by them during the
course of their work week or day in the order
of their seniority.

A careful review of the record indicates that the Claimant served

in the Track Department as a Foreman on the Pittsburgh Seniority District. The record also shows that employee M. West served in the Track Department as a Foreman on the Pittsburgh Seniority District.

In a relevant case between the same parties, the Third Division observed:

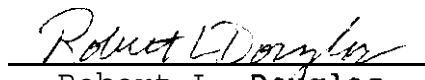
Rule 17 governs this dispute. Under Rule 17, preference for overtime work shall be given to the employee who has been performing the work in the course of the work day or workweek immediately preceding the need for overtime.

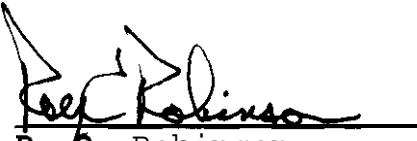
(Award No. 35004 at 3 (September 20, 2000) (Scheinman, Referee).)

The record substantiates that the disputed overtime work occurred on Sunday, January 19, 1997 on the River Line in the Conway Subdivision. The record omits any evidence to connect the Claimant to the disputed overtime work at the relevant time. In fact, the record indicates that Mr. West had greater seniority than the Claimant. In the absence of the necessary connection by the Claimant to the disputed overtime work at the relevant time, the record fails to provide a factual basis to sustain the claim.

AWARD:

The Claim is denied.


Robert L. Douglas
Chairman and Neutral Member


R. D. Robinson
Employee Member


D. L. Kerby
Carrier Member

Dated: 9/6/01