

SPECIAL BOARD OF ADJUSTMENT 1016

Case No. 199

Award No. 199

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 failed and refused to compensate Messrs. J. Kubiak, L. Kubiak, R. Keiger, G. Pachuta, J. W. Jones and A. J. Hill for time expended in connection with attending Commercial Driver's License training classes during their off duty hours and on weekends from February 8 through February 21, 1997.

(2) As a consequence of the violation referred to in Part (1) above, the Claimants shall each be compensated at their respective time and one-half rate for five (5) hours overtime on weekdays February 10 through February 15 and February 17 through February 21, 1997; and ten (10) hours overtime on weekends February 8, 9 and February 15, 16, 1997.

FINDINGS:

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

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

In 1986, the Federal Commercial Motor Vehicle Safety Act was enacted. Among other things, the Act requires operators of commercial motor vehicles to obtain a

Commercial Driver's License (CDL). On Conrail, Foremen who operate commercial vehicles are required to have a CDL.

At the end of the production season in 1996, the Organization asked the Carrier if it was possible to schedule CDL training classes on the property when many employees were furloughed and thus available for such training. The Organization wished to schedule CDL training classes during December 1996, and during January and February 1997. It should be noted that neither the law nor the BMW-Conrail Agreement requires the Carrier to arrange CDL training for its employees.

After sufficient interest was shown by employees in CDL training during this period the Carrier arranged for classes to be held on the property. They were held Monday through Friday evenings after normal working hours and on weekends. Employees were told that participation in this CDL training was voluntary. They were also advised that they would not be paid for the time spent at these classes but that the cost of the training would be reimbursed through Conrail's Education Assistance Program.

The Claimants attended CDL training classes evenings and weekends between February 8 and February 21, 1997. The Claimants are all Maintenance of Way Foremen on Conrail. On March 4, 1997, the Organization submitted a claim and/or grievance on behalf of the Claimants seeking compensation for the time they attended CDL training classes evenings and weekends. The Carrier denied the claim contending that these classes were strictly voluntary and no agreement with the BMW requires payment for voluntary training outside of assigned hours.

At the outset, it must be noted that Conrail does not require operators of its commercial motor vehicles to possess a CDL. Rather, this is a requirement of the Federal Government. Moreover, there is no legal obligation on Conrail to assist employees in obtaining a CDL. Thus, when it arranged for Ohio Truck and Bus Driving Academy, Inc. to use its facilities to hold CDL training classes this was done as an accommodation to its employees, not because of any legal or contractual obligation.

When the Carrier notified employees that Ohio Truck and Bus Driving Academy, Inc. would be holding CDL training classes on the property in February 1997, it specifically advised them that their participation was voluntary and that they would not be paid for the time attending the classes. The Carrier could not have been any clearer.


No provision of the BMW-Conrail Agreement requires employees to be compensated for attending voluntary training outside their assigned hours. Numerous awards throughout the rail industry have held that training classes do not constitute "work" or "service" under overtime rules.

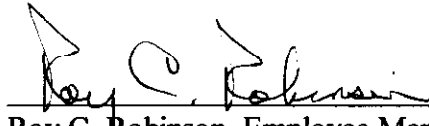
Since the time expended by the Claimants at the voluntary CDL training classes in February 1997, was not "time worked," the overtime compensation mandated by Rule 11 was inapplicable to them. Furthermore, Rule 22 of the BMW-Conrail Agreement

was inapposite since the Claimants were not required to take examinations outside the hours of their regular tours of duty when they attended the voluntary CDL classes.

For all the aforementioned reasons, this Board finds that the Claimants were not entitled to compensation while attending the voluntary CDL training classes in February 1997. The claim is denied as a result.

AWARD: Claim denied.


Robert M. O'Brien, Neutral Member


Roy C. Robinson, Employee Member


Dennis L. Kerby, Carrier Member

Dated: 4/30/02