

SPECIAL BOARD OF ADJUSTMENT 1016

Award No. 168

Case No. 168

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 junior B&B Mechanic L. Kowalski to perform overtime service at Conway Yard to change fulcrums on the scales on Saturday, February 3, 1996, instead of calling and assigning senior B&B Mechanic B. E. McCurdy to perform such work (System Docket MW-4374).
2. As a consequence of the violation referred to in Part (1) above, Claimant B. E. McCurdy shall be allowed seven (7) hours' pay at his respective time and one half 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:

A careful review of the record indicates that the Organization proved that the Carrier assigned a junior employee to perform the disputed work.

Rule 17, titled Preference for Overtime Work, provides in pertinent part:


Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them

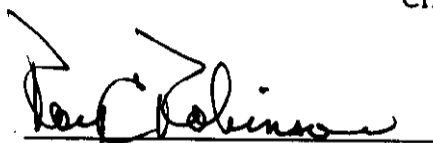
during the course of their work week or day in the order of their seniority.

The record reflects that the representative of the Carrier misconstrued an alleged statement by the Claimant about not preferring to work overtime on a Sunday as applying to the Claimant's availability to perform the disputed work on a Saturday. While the statement may have had some arguable relevance to a Sunday situation, the handling of this issue on the property does not correspond to a careful analysis of the precise factual circumstances that relate to the Claim. In this connection the representatives of the Carrier did not consistently interpret the alleged statement during the handling of the Claim on the property. Under these special circumstances, the record omits any persuasive evidence that a valid basis existed to justify the Carrier's decision not to assign the disputed work to the Claimant.

AWARD:

The Claim is sustained in accordance with the Opinion of the Board. The Carrier shall make the Award effective on or before 30 days following the date of this Award.

  
Robert L. Douglas  
Chairman and Neutral Member

  
R. D. Robinson  
Employee Member

  
D. L. Kerby  
Carrier Member

Dated: 9/6/01