

SPECIAL BOARD OF ADJUSTMENT 1016

Award No. 177
Case No. 177

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 employee L. J. Rodgers, instead of assigning senior Class 2 Machine Operator G. M. Hanna, to perform overtime service on October 17, 1997 (System Docket MW-5108).
2. As a consequence of the violation referred to in Part (1) above, Claimant G. M. Hanna shall be compensated for eight (8) hours' pay at his respective Class 2 Machine Operator's 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:

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.

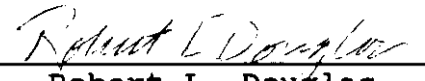
Rule 17 specifically mentions "qualified" as a critical prerequisite for an employee to be eligible to receive a

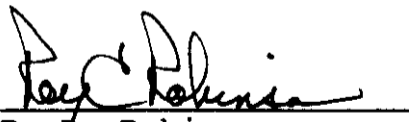
preference for the performance of overtime work. In doing so, Rule 17, of course, relates to overtime and omits any reference whatsoever to the performance of work during the regular hours of the workweek.

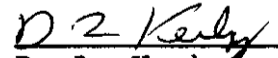
The record omits any persuasive evidence that the Claimant had officially qualified as of the relevant date, October 17, 1997, to perform the disputed work. In the absence of such persuasive evidence, Rule 17 therefore precludes approval of the claim under these specific facts and circumstances.

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