

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11451
Docket No. 11091
88-2-85-2-292

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
PARTIES TO DISPUTE: (
(Birmingham Southern Railroad Company

STATEMENT OF CLAIM:

1. That the Birmingham-Southern Railroad Company, hereinafter referred to as the Carrier, violated the controlling agreement by compensating Carman I. Lewis, hereinafter referred to as the Claimant, at straight time rate in lieu of the overtime rate for the first shift change in each instance when filling a vacancy on October 20, and November 11, 1984.

2. And accordingly, the Carrier should be ordered to additionally compensate Claimant for the difference between straight time rate and overtime on each occasion, or eight (8) hours straight time rate, as the result of said violations.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On the weekends of October 20, 1984, and November 11, 1984, Claimant filled Carmen vacancies when the regularly assigned Carman was on leave because of military reserve duty. Claimant was paid at the straight-time rate. The Organization thereafter filed a claim on Claimant's behalf, asserting that Claimant should have been compensated at the overtime rate under the vacation relief rule.

This Board has reviewed the evidence in this case, and we find that the Organization has not presented sufficient evidence to support its claim. The Carrier has presented evidence of an historical past practice, as well as some documentation relating to an oral agreement with the former General Chairman. The Organization has not presented any evidence to the contrary. Since the burden of proof is on the Organization, this claim must be denied.


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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 6th day of April 1988.