

Award No. 14236
Docket No. MW-14405

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Herbert Schmertz, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CENTRAL OF GEORGIA RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective agreement when on January 1, 6, 8, 16, 24 and 26 and February 1 and 3, 1962, it instructed and permitted Track Supervisor W. C. Resseau to perform the work of a Traveling Section Foreman as set out in the Statement of Facts, in directing the work of Section Laborer L. Fielding, who is assigned to the Traveling Section headquartered at Machen, Georgia, and as a result thereof:

(2) Mr. A. C. Crawford be paid 36 hours and 10 minutes at his time and one-half rate account of the violation referred to in Part 1.
[Carrier's Docket No. MW-9386.]

EMPLOYES' STATEMENT OF FACTS: The Claimant, Mr. A. C. Crawford, holds seniority as Section Foreman with seniority date of January 9, 1946 and was assigned to the position of Traveling Section Foreman headquartered at Machen, Georgia.

On Monday, January 1, 1962, Supervisor W. C. Resseau called Section Laborer L. Fielding at 10:30 A. M. and they patrolled track between Gordon, Georgia and mile post 188.4 Savannah District, returning at 2:30 P. M.

On Saturday, January 6, 1962, Supervisor W. C. Resseau called Section Laborer L. Fielding at 9:00 A. M. and they patrolled track between Gordon, Georgia and Eatonton, Georgia, returning at 2:30 P. M.

On Monday, January 8, 1962, Supervisor W. C. Resseau called Section Laborer L. Fielding at 7:00 P. M. and they worked until 10:00 P. M., rerailling Engine 111 at McIntyre, Georgia.

On Tuesday, January 16, 1962, Supervisor W. C. Resseau called Section Laborer L. Fielding at 4:30 P. M. and they motored from Gordon, Georgia to

OPINION OF BOARD: The alleged violation of the Agreement is predicated on an averment that the Carrier violated the effective Agreement when, on certain dates in January and February, 1962, it instructed and permitted a Track Supervisor to perform the work of a Traveling Section Foreman. The burden of proving the averment, by evidence of probative value, is on the Organization. The record does not contain such evidence. In three previous cases involving the parties herein, we held such failure of proof to be fatal. Awards 14079, 12244 and 12415. In accord with the cited awards, we will deny the claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the 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 Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of March 1966.