

Award No. 16253
Docket No. MW-16838

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(SUPPLEMENTAL)

Milton Friedman, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
CAMAS PRAIRIE RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it used an assistant track foreman instead of Truck Driver Louis Greco to perform the usual and customary duties of a truck driver on Sunday, August 1, 1965.

(2) Truck Driver Louis Greco now be allowed three and one-half (3½) hours' pay at his time and one-half rate because of the violation referred to in Part (1) of this claim."

EMPLOYEES' STATEMENT OF FACTS: Claimant Louis Greco has established and holds seniority as a truck driver on the Camas Prairie Railroad. At the time of this dispute he was the regularly assigned (by bulletin) truck driver on Section #4 with headquarters at East Lewiston, Idaho. He was assigned a work week extending from Monday through Friday (Saturdays and Sundays were rest days).

On Sunday, August 1, 1965, instead of calling and using the claimant, the Carrier called and used Assistant Foreman Tony Greco to drive the truck used to haul five (5) sectionmen, tools and fire fighting equipment to a fire near Arrow, Idaho. Assistant Foreman Greco departed from East Lewiston at 2:30 A.M. and returned thereto at 6:00 A.M.

The claimant was available, willing and fully qualified to have performed the work of his position had he been called and given an opportunity to do so.

By Agreement of November 16, 1962, the parties hereto agreed that:

* * * * *

"Section 3. Effective December 1, 1962, the said agreement effective December 1, 1962 between the Northern Pacific Railway and Brotherhood of Maintenance of Way Employees will be applied in accordance with its terms to employees of the Camas Prairie Rail-

road represented by the Brotherhood of Maintenance of Way Employees."

CARRIER'S STATEMENT OF FACTS: A section crew is assigned to work with headquarters at Lewiston. The complement of this section crew usually consists of:

- 1 Section Foreman
- 1 Assistant Section Foreman
- 1 Truck Driver
- 13 Sectionmen

Tony Greco is assigned to the position of assistant section foreman and Louis Greco is assigned to the position of truck driver.

This section crew is assigned to work from 7:00 A.M. to 3:30 P.M., Monday through Friday.

A highway truck of approximately one and one-half ton capacity is assigned to this section crew.

A six-man crew cab pickup truck is also stationed at Lewiston. This truck is used by various departments in transporting employees to outlying points.

On Sunday, August 1, 1965, a fire occurred near Arrow, approximately fourteen miles distant from Lewiston. Assistant Section Foreman Tony Greco and five sectionmen were called in connection with the fire at Arrow, departing from Lewiston at 2:30 A.M. and going off duty at 6:00 A.M. on August 1, 1965. Assistant Section Foreman Tony Greco operated the six-man crew cab pickup truck in transporting the five sectionmen from Lewiston to Arrow and return.

Claim has been presented in behalf of Louis Greco for payment of three hours and thirty minutes at time and one-half rate on August 1, 1965 because of not being used to operate the crew cab pickup truck in transporting the sectionmen from Lewiston to Arrow and return, which claim has been declined.

OPINION OF BOARD: Claimant, who has a Monday-to-Friday work-week, holds seniority as a truck driver. On Sunday, August 1, 1965, one of Claimant's rest days, Carrier called Assistant Foreman, Tony Greco, to drive a pickup truck transporting five sectionmen and equipment to a fire.

No effort was made by Carrier to call Claimant. The Employees contend that under Rule 34(g), "Work on Unassigned Days," Claimant should have been called, since he was the "regular employee" assigned to truck driving.

Carrier asserts that Claimant is not the only employee assigned to truck driving, and that the pickup truck used on August 1 is used by all departments.

However, as between Claimant and the Assistant Foreman, Claimant performed this work during his regular work week, while there is no evidence that the Assistant Foreman ever did. Pursuant to Rule 34(g), therefore, Claimant should have been called in on his rest day.

This holding is distinguishable from that in Award 14305, cited by Carrier, because in that case the Foreman involved did drive a truck which was regularly assigned to him. We are not called upon in this case to decide whether the work is exclusively Claimant's or anyone else's. Once we have found that Claimant is a regularly assigned truck driver, holding seniority in that position, and the Assistant Foreman has not been shown to have driven a truck, the claim must be sustained on that ground alone.

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 Employee involved in this dispute are respectively Carrier and Employee 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 violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of April 1968.