

**Award No. 18878**

**Docket No. 19158**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Robert A. Franden, Referee**

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**THE DENVER AND RIO GRANDE WESTERN  
RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it used a B&B carpenter to perform truck driving work on November 3, 5, 6 and 7 and when it used a pipefitter to perform truck driving work on November 4, 1969 instead of calling and using furloughed B&B Helper H. L. Guide (System File D-9-9/MW-2-70).

(2) B&B Helper H. L. Guide be allowed forty (40) hours' pay at the B&B helper's straight time rate and five (5) hours' pay at the B&B helper's time and one-half rate because of the violation referred to within Part (1) of this claim.

(3) The Carrier shall also pay the claimant six percent (6%) in per annum on the monetary allowance accruing from the initial claim date unpaid.

**EMPLOYEES' STATEMENT OF FACTS:** On February 20, 1969, the Carrier issued Bulletin No. 1 wherein it advertised three (3) positions on B&B Gang 6361, one of which was a position of truck driver. Claimant Guide was the successful applicant for the position of truck driver and was assigned thereto by a bulletin dated March 3, 1969. Copies of the aforesaid bulletins are attached hereto as Employees' Exhibits "A" and "B."

Positions of truck driver within the Maintenance of Way and Structures Department constitute a separate work classification although employees assigned thereto do not establish a separate truck driver's seniority date as such. In this connection we invite attention to Supplement "3" which reads:

**"RECITALS**

(A) Effective February 1, 1941, the parties hereto entered into a working agreement which, with changes therein, is in effect at the present time and may be hereinafter referred to as the General Agreement.

The Agreement in effect between the two parties to this dispute dated January 1, 1969, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

(Exhibits not reproduced.)

**CARRIER'S STATEMENT OF FACTS:** On November 1, 1969, the B&B Gang at Grand Junction, Colorado, was composed of a foreman and three B&B carpenters.

The seniority dates of these four men as foreman, carpenter and helper are shown below:

	Foreman	Carpenter	Helper
R. S. Dillon, Foreman	3/20/37	7/1/28	4/19/27
A. C. Blackshear, Carpenter		8/18/52	8/12/52
E. C. Williams, Carpenter		5/1/58	6/11/41
D. J. Smith, Carpenter		4/24/67	3/13/67

These men all worked on the Grand Junction B&B Gang through November 20, 1969.

The Claimant, Mr. H. L. Guide, has a seniority date of February 26, 1963, as a B&B helper but does not hold any seniority as a carpenter.

There were no positions of either truck driver or helper assigned to this gang during the period covered by this claim.

The truck assigned to this gang was driven by carpenters and/or the foreman when it was in use as an incidental part of their work.

Carrier desires to call your attention to the Statement of Claim submitted to your Honorable Board by the Organization. This Statement of Claim was never presented to the Carrier on the property.

**OPINION OF BOARD:** For the reasons set out in Award No. 18876 which was presented with this case and in which the same issue is involved we will deny the claim.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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: E. A. Killeen  
Executive Secretary

Dated at Chicago, Illinois, this 10th day of December 1971.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.