

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **19821**
Docket Number MW-19775

Burl E. Hays, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(The Texas and Pacific Railway Company

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

(1) The Carrier violated the Agreement when it assigned Midland Valley Railroad Company **employees** to perform overtime service on the Kansas, Oklahoma & Gulf Railway Company in the vicinity of Allen, Oklahoma on October 10, 1970 (System File K-310-79).

(2) Messrs. G. W. Hall and K. R. Austin each be allowed fifteen and one-half (**15-1/2**) hours of pay at their respective time and one-half rates and one (**1**) hour of pay at their respective double time rates and Messrs. B. Wright, G. E. Jumper, C. L. Ford and E. W. Ivey each be allowed sixteen (16) hours of pay at their respective time and one-half rates and one-half (**1/2**) hour of pay at their respective double time rates because of the violation referred to in Part (**1**) hereof.

OPINION OF BOARD: Claimants are regularly assigned to Extra Gang No. 401 headquartered at Muskogee, Oklahoma. A washout occurred in the vicinity of Allen, Oklahoma. Carrier assigned Extra Gang 401, on whose territory the washout occurred, and track crews from another seniority territory. Claimants' Gang worked from 7:00 A.M. on October 9, 1970 until released at **7:30** A.M. on October 10, 1970. The Stigler Gang, from the other seniority territory, who also **commenced** service at **7:30** A.M. October 9, 1970, were released around midnight after sixteen and one-half (**16½**) hours' service and returned at 7:00 A.M. on October 10, 1970, relieving members of Extra Gang No. 401 who had completed twenty-four (24) hours' service. The Stigler Gang completed the necessary repairs after sixteen and one-half (**16½**) hours of service on October 10, 1970. It is the contention of Claimants of Extra Gang No. 401 that they should have been permitted to continue work on October 10, 1970 and to have received the additional overtime because said work was on their seniority district.

The record in this case shows that Carrier relieved the Stigler Gang after sixteen (16) hours' work; retaining Extra Gang No. 401 until 7:00 A.M. the following morning. It is apparent that the emergency duration, being unpredictable, necessitated **recalling** the Stigler Gang to **pro**vide rest for the regular forces who had been on continuous duty for twenty-four (24) hours.

Upon the record presented, we find that Extra Gang No. 401, as it was composed, were accorded work rights within their work efficiency. We find no basis on the facts of record for an affirmative Award and will dismiss the claim.

Award Number 19821
Docket Number MW-19775

Page 2

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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killian
Executive Secretary

Dated at Chicago, Illinois, this 20th day of Juu.1973.