

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number **21586**  
Docket Number CL-21380

David C. **Randles**, Referee

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station **Employees**

PARTIES TO DISPUTE: (

(Pacific Fruit Express Company

STATEMENT OF CLAIM: Claim of the System **Committee** of the Brotherhood, GL-8001, that:

(a) The Pacific Fruit Express Company violated the current Clerks' Agreement at Eugene, Oregon, When it required a Class 3 **employee** to perform work reserved to Class 1 **employees, and,**

(b) The Pacific Fruit Express Company shall now be required to allow Mr. Leo **E.** Lee, Relief Shift For- and Agent, five hours and 20 minutes **overtime** rate at \$4.78 per hour each date March 8, 22, 29, April 19 and May 10, 1972, **and,**

(c) The Pacific Fruit **Express** Company shall now be required to allow Mr. **B. R.** Lee, Shift Foreman, an aggregate of fifty-three hours and twenty minutes overtime compensation at \$4.78 per hour, involving several dates in March, April and May, 1972, hereinafter specified, Exhibit C; and,

(d) The Pacific Fruit Express Company shall **now** be required to allow Mr. **R.** L. Stiles, Relief Shift Foreman, five hours and twenty minutes overtime **compensation at** \$4.78 per hour each date March 2, 9, 16, 23, 24 and May 18, 1972; and,

(e) The Pacific Fruit Express Company shall now be required to allow Mr. P. W. Stahl, Shift Foreman, an aggregate of seventy hours **overtime** compensation at \$4.78 per hour involving several dates in March, April and **May**, 1972, hereinafter specified, Exhibit E.

OPINION OF BOARD: The claim of the Organization is that the Carrier violated the Agreement when it assigned a Machine Operator Foreman to inspect mechanical shipments, inspect **and** supervise icing and inspect and supervise heater **service**. The Organization further contends that this work should be **done** by a Clerk-Inspector.

The Carrier supports its position by stating that the Agreement does not provide **nor** require that inspection of mechanical shipments is exclusively the Work of Clerk-Inspector. The Carrier also contends that there is **no** prohibition against the use of a Machine Operator Foreman, a higher rated position, to perform the work of a lower rated position, that is, if the Carrier pays the higher rated employee his regular rate for **performing** the duties of the lower rated position, per Rule 18. Furthermore, the inspection performed by the

Machine Operator Foreman was incidental in frequency and constituted a minor part of his work, and finally, the supervision of icing and heater service is **more** normally done by a Machine Operator **Foreman** than a Clerk-Inspector. The Machine Operator Foreman, during the period in question, had more than seven (7) hours a shift dead **time**. The Carrier maintains that in the interests of economy and **reason**, such a person should be used for the disputed work **in** that the alternative would be to call in extra help to do fifteen (15) **minutes** work.

The position of the Rmplies is that the Carrier violated Rules 31 and 32 of the Agreement when it used an on-duty Class 3 **employee** to perform Class 1 work when senior Class 1 **employees** were available and willing to perform the duties and also because the involved work had always been done by Class 1 **employees** in the past.

The Organization in presenting its claim assumes the burden of proof to sustain it. At no time on the property did the Organization offer conclusive evidence that the work in question was exclusively the work of the claimants. Furthermore, the Carrier has the right to assign work in such a manner not prohibited by the Agreement; in fact, this Board has held on numerous occasions that classifications of work within an Agreement are not exclusive grants of work to each classification. Award 17421 (Goodman).

The record on the property alleges that Rules 31 and 32 were violated. These Rules prescribe the manner of compensation for actual overtime work and are thus not relevant to the claim herein.

**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,

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The Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

*C.W. Pauls*  
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1977.