

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22056
Docket Number CL-21661

James F. **Scearce**, Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, **Freight** Handlers,
(Express and Station **Employees**
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation
((Former Penn Central Transportation Company)

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood,
GL-8162, that:

The Carrier violated the Rules Agreement, effective February 1,
1968.

When on February 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22,
23, 24, 25, 28 and 29, 1972, inclusive management assigned Tractor
Operator Position, Bulletin number P-27, to Mr. P. **M.** O'Leary, roster
standing 5-11-71, a junior employe and failed to recall from furlough
the senior employe Mr. **Jeffery Shay**, seniority date **2/24/71**, roster
number 507, who has bid on the above mentioned position.

That Mr. **Jeffery Shay**, roster number 507, occupation
furloughed employe, be paid eight hours wages at time and half rate,
for each of the above mentioned dates, total of sixteen days and for
all subsequent dates until claimant is returned to duty.

OPINION OF BOARD: The basic issue underlying the assignment of a
junior employe to the position on which Claimant
had properly bid has been resolved in petitioner's favor in our Awards
21870 (**Zumas**), 18446 (Quinn), and Award 9 of PLB 1376 (Sickles) between
these same parties. After carefully examining these authorities, we do
not find them palpably erroneous and, applying them to the facts of
record, we will sustain the claim. However, the time and one-half rate
claimed is inappropriate. Claim is sustained for all wage loss from
February 8 until Claimant is, or was, returned to duty.

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

The Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Paulos
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May 1978.

