

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22248
Docket Number MW-22230

Nathan Lipson, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**
(
(The Illinois Central Gulf Railroad **Company**

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

(1) The Agreement was violated when the Carrier recalled D. L. Wall to service on December 8, 1975 instead of recalling Ricky Keene whose seniority as a carpenter helper is superior to that of D. L. Wall (**System** File **Mi-226-B&B-76/134-692-337** Spl. Case No. 1044 McFW).

(2) Claimant Keene shall be allowed pay 'for eight hours a day, twenty-five days, at \$5.50 per hour, **from** December 8, 1975 through January 9, 1976.'"

OPINION OF BOARD: **Employees** Keene and Wall have established seniority dates as carpenter helpers of January 6, 1975 and February 3, 1975, and as bridgemen as of September 16, 1974 and July 31, 1974, respectively. Keene is senior in point of seniority to Wall as a carpenter helper but junior in point of seniority as a bridgeman. Carrier recalled Wall to service December 8, 1975 and he was compensated at the carpenter helper's rate of pay. A claim was submitted on behalf of Keene because he was the senior carpenter helper and was entitled to the position. Carrier contends that Wall was improperly paid at the carpenter helper's rate of pay as he was recalled as a bridgeman and his rate of pay was adjusted accordingly.

A study of the record fails to conclusively show that a carpenter helper position was created at the time of Wall's recall or that Wall actually performed the duties of that class of employee during the claim period. Accordingly, the Board, without evidence of fact to substantiate Organization's allegations, will dismiss 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 Employes involved in this dispute are respectively Carrier and **Employes** 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.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

A. W. Pauls
Executive Secretary

Dated at Chicago, Illinois, this **14th** day of **December 1978**.

