

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22306  
Docket Number MW-22270

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way **Employees**  
(Illinois Terminal Railroad Company

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

(1) **The Agreement** was violated when, on August 3, 1976, the Carrier called and used **B&B Foreman** Wiser to perform **B&B** mechanic's work during **overtime** hours instead of calling and using **B&B** Mechanic James Roark **therefor** (System File **ITRR-1976-26**).

(2) As a consequence of the aforesaid violation, **B&B** Mechanic James Roark shall be allowed nine **(9)** hours of pay at his time and one-half rate."

OPINION OF BOARD: In this case it was necessary to replace a bridge car after **regularly** assigned hours. The Bridge and **Building** Gang No. 51 was **called**, but was **unable** to obtain a sufficient **number** of **employees** to perform the work. Therefore, **the** Foreman and one Mechanic from Bridge and Building Gang No. 54 were called and used.

It is the contention of the Claimant that the Foreman **performed** the work of a Mechanic and, therefore, the Mechanic **Claimant** seeks compensation for nine hours at his **time** and one-half rate.

The Carrier defends on the basis of emergency and asserts that the Foreman was closer to where the work needed to be performed than **was** the **Claimant**.

The Organization points out that it is pure speculation as to whether the Foreman or the Claimant could have arrived at the trouble spot first.

The record indicates **that** an emergency situation did exist and that the Carrier contacted the person it believed to be closest to the scene. **Under** the circumstances presented in this case, we find no fault with **the** action of the Carrier and accordingly deny the claim.

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**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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of February 1979.

