

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22547
Docket Number H-22447

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of **Maintenance** of Way **Employes**
(Louisville and Nashville Railroad Company

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

(1) The Carrier violated the Agreement when, on November 20 and 21, 1976, it used Track **Repairman** O. Sanders, Jr. to **operate** the truck assigned by bulletin to Truck Driver G. S. Coleman / **Sy** System File 1-5(79)/E-265-11 E-265/.

(2) Truck Driver G. S. Coleman be allowed sixteen (16) hours of pay at his time and one-half **rate** because of the violation referred to in **Part** (1) hereof."

OPINION OF BOARD: The Claimant was a regularly assigned track driver with Saturday and Sunday rest days. When Carrier required the use of a truck on a Saturday and Sunday in **November, 1976**, it used the services of a track repairman (Sanders) who normally worked on weekends to drive the truck that Claimant **regularly** drives. Claimant asserts a violation of Rule **30(g)**:

"**30(g)** Where work is required by the carrier to be performed on a day which is not a part of any **assignment**, it **may** be performed by an available extra or unassigned employe who will otherwise **not** have **40** hours of work that week; in all other cases **by** the regular employe."

Carrier stresses that trucks are - in reality - tools, such as locomotives, **IBM** machines, etc., and it relies upon Awards **21441** and **21774** concerning disputes between these parties. The Claimants contend that the mentioned Awards **are** incorrect.

Award **21441** was concerned, to a **significant** extent, with a procedural question. **But**, it concluded, regarding Rule **30(g)** among others - that the rule(s)... "**simply do not support** Petitioner's claim..." The claim had asserted a violation when a "...**Truck** Driver...was-not called a&d used to drive the truck used by Assistant **Roadmaster...** to patrol **track...on** certain days."

Award 21744 was also concerned with the same procedural question, but it concluded that there was no violation, and the claim (Truck Driver **not used to drive truck used by Assistant Roadmaster to patrol and inspect track**) was dismissed "...since **no other employe** worked overtime or was called..."

We have considered the Awards cited by the Claimants - as they relate to precedent Awards on the same property concerning the same issue.

It is a well recognized principle of this Board **that** once an issue is decided between the parties, it should not be disturbed, absent a finding that the prior Award(s) is palpably erroneous. There is, of course, a sound basis for that doctrine as it tends to guarantee a basic predictability of labor relations between the parties. **This** doctrine applies even if a subsequent authority would have reached a different conclusion had it considered the matter in the first instance. This, of course, is a classic test of that principle and, **regardless** of our individual **predilictions** we gather, from a close reading of the two prior Awards - **and** making some reasonable inferences - that the factual circumstances are similar. Here - as in Award 21744 - **no one was "called in" or "worked overtime" in place of the Claimant.**

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. Paulsen*
Executive Secretary

Dated at **Chicago**, Illinois, this 28th **day of** September 1979.