

NATIONAL RAILROAD ~~ADJUSTMENT~~ BOARD

THIRD DIVISION

Award Number 22732
Docket Number MW-22752

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way ~~Employees~~
(The Atchison, Topeka and Santa Fe Railway Company

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

(1) The Agreement was violated when, during the ~~period~~ extending from September 13, 1976 to November 2, 1976, an employe junior to ~~Trackman~~ V. L. Zarate was used to perform ~~overtime~~ service on Tie Gang No. 32 (System File ~~11-1580-220-119/13-T-65-4~~).

(2) The Carrier shall now allow to Claimant Zarate pay at his overtime rate for a number of hours equal to the overtime hours worked by the junior employe from September 13, 1976 to November 2, 1976."

OPINION OF BOARD: The Claimant asserts that the Carrier used a junior employe to perform ~~overtime work~~ during a designated period of time.

The Carrier asserts that during the applicable period, the only junior employe who was used for ~~overtime~~ work was a truck driver (Roberts).

The truck driver hauled fuel for certain of the machines which were being used at the times in question, moved slow boards and transported members of the section frw the work train site to headquarters.

As a truck driver, Roberts was required to operate a number of different types of vehicles ~~during~~ the course of a work day; ~~some~~ of which required a commercial driver's license.

The fact that Roberts was ~~used~~ to operate a "pickup truck" during certain periods of ~~time~~ (and a ~~commercial~~ license ~~may~~ not have been required for that vehicle) does not, to us, justify the claim. If an individual is ~~designated as~~ a driver, it would appear that he is required to drive whatever vehicle happens to be available at the time.

Under the circumstances, we 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 **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 dismissed.

NATIONAL RAILROAD **ADJUSTMENT BOARD**
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this **31st** day of January 1980.