

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23885  
Docket Number CL-23438

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

(Brotherhood of Railway, Airline and Steamship Clerks,  
( Freight Handlers, Express and Station Employees  
(Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-9016) that:

(1) **Carrier** violated the terms of the **Agreement** between the Parties when it failed and refused to use Mr. L. G. Metz, the **senior**, available, qualified employee, to fill a **vacancy** at overtime rate on **Sunday**, October 16, 1977, at **Burnsville Junction**, West Virginia. **and**

(2) **Because** of such **impropriety**, **Carrier** shall compensate **Claimant** L. G. Metz **eight** (8) hours' pay for the date of October 16, 1977.

OPINION OF BOARD: The Claimant had submitted a request to work overtime on ● 11 positions, but on the claim date a **less senior employe** was used. On the property, the **Carrier** defended its position by **making**, among other defenses, that "... had the **Claimant** been used, it **would** have prevented him from working his **own** regular ● ssignment the following **morning** under the-Hours of Service Law."

A **similar claim** was presented to this Board and denied in Award 23532, and that **Award** (between these **same parties**) disposes of this dispute.

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.

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Docket, Number CL-23438

Page 2


A W A R D

**Claim** denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order Of Third Division

**Attest:** Acting Executive Secretary  
National Railroad Adjustment Board

By



Rosemarie Brasch - Administrative Assistant

Dated et Chicago, Illinois, this 13th day of May, 1982.

