

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23948
Docket Number CL-24231

George S. Roukis, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and Steamship Clerks,
(Freight Handlers, Express and Station **Employees**
(Maine central Railroad Company
(**Portland Terminal Company**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9506) that:

(1) **Carrier** violated the **Agreement between** the parties, when it assigned work and overtime of thirty-four (34) hours at time and **one-half** and fifteen (15) hours at double **time** pay Steep Falls, Vermont, May 5, 1980, 3:00 AM to **May 9, 1980**, to junior employee, Store Helper - Laborer.

(2) Carrier shall **compensate** Timothy E. Savasuk, Store Helper - Laborer, thirty-four (34) hours at time and one-half and fifteen (15) hours at double time pay, May 5, 1980, 3:00 AM to May 9, 1980, Steep Falls, Vermont, account Carrier delegated work and overtime to junior employee.

OPINION OF BOARD: Claimant, a Senior Store Helper-laborer, contends that Carrier violated the controlling Agreement, particularly Rules 3, 5, 6 and 16 thereof, when it assigned work and overtime as **Store Helper-Laborer** to a junior employee **between May 5, 1980 and May 9, 1980**. He asserts that he should have been assigned to the **Vac-U-Vator** team at the **Steep Falls, Maine** derailment, **since he was** the senior **qualified employee available to perform this work and** argues that he covered similar assignments on the **Vac-U-Vator** team in the past in accordance with on **situs** practice.

Carrier contends that **common laborer's work was** needed at the derailment location and it called the lower rated laborer **first** when this type of **work was** required. It **argues** that it has always been the practice to call the **lower** paid unassigned laborers first when a **common** laborer was needed and its **assignment** of the junior employee was not a violation of the Agreement. It avers that Claimant's contention that seniority was **used** when a senior employee was previously called to move the **Vac-U-Vator** is without **precedential** effect, since the selection decision in that case was based upon the fact that the senior **employee had a class I driving license**.

In our **review** of this case, we concur with Carrier's position. **Basically**, the pivotal question before this **Board** is whether **Carrier** was obligated to assign the contested work to employees first within the job classification needed and listed on the Stores Laborers' Roster or to the most senior employees listed on **that** Roster. The Stores Laborers' Roster which contains twenty four (24) **names** shows that nine (9) **employees** are common laborers, who are paid the same **rate** and required to do whatever straight laborers work occurs in the **Stores** Department. **The** remainder of the employees hold specific higher **paying** positions. Since it was the practice to assign

work **first to employees within** their respective job **classifications**, it was not improper or a violation of the **Agreement to assign** the junior **employee** to perform **common** laborers work at the **Steep Falls, Maine** derailment. The record clearly shows that the parties consistently **observed this format of assignment** and as the **lower** paid **unassigned** laborer, it was permissible to call a laborer to **perform** the laborer's work at the aforesaid location.

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: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of July 1982.

