

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24096  
Docket Number MW-23902

Joseph A. Sickles, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(St. Louis-San Francisco Railway Company)

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

(1) The Carrier violated the Agreement when it assigned junior Machine Operator B. **Britt** to perform **overtime** service on August 25, **26** and 27, **1979** instead of calling and **using** Machine Operator J. C. **McMorris** who was senior, available and willing to perform that service (System File **B-1733/D-9937**).

(2) Machine Operator J. C. **McMorris** shall be allowed eighteen and one-half (**18-1/2**) hours of pay at his time and me-half rate because of the aforesaid violation."

OPINION OF BOARD: In its submission to this **Board** the Organization asserts that the Claimant was senior to **certain** individuals who **performed** overtime service on claim dates.

**The Board** has considered the dispute as it was handled on the property and we have noted significant confusion as to the precise claim presented. In fact, the Carrier raised the issue that it was not certain **what** rights the Claimant was asserting and what position he should have been filling.

Inasmuch as the record is rather imprecise concerning the asserted violation and because the Organization has the burden in this case we have no alternative but to dismiss the case for failure of proof.

FINDING?.: 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** claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

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

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 5th day of January 1983.

