

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 24390
Docket Number MW-24319

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Missouri Pacific Railroad company)

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

(1) **The Agreement** was violated when Welder J. R. **Carnline** was not called to perform **overtime** service as a welder on January 19, 1980 and the **Carrier** instead used Assistant **Roadmaster Malveaux** for such service (Carrier's File S 310-360).

(2) Welder J. R. **Carnline** be allowed **ten** and one-half (10-1/2) hours of pay at his **time** and one-half rate because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: Claimant, J. R. **Carnline**, a Welder **in** Carrier's service **who** lives **in** Shreveport, Louisiana, was called on Saturday, January 19, 1980, to work a **derailment in** the west end of the Shreveport yards. He was not reached by Carrier and Assistant Roadmaster **Malveaux** performed the necessary cutting and welding duties. Petitioner alleges that Claimant was available for work and should have been reached and given the work. Carrier contends that Assistant **Roadmaster Malveaux made two** calls to Claimant's **home** to call him for the **work** but he was not at home. Petitioner denies Carrier's statement **on** this issue.

A review of the record of **this** case convinces this Board that Carrier met its obligation to contact **Claimant** and offer him the overtime work. He was called twice **in 45** minutes. He was not available to take the calls. Carrier, therefore, **performed** the cutting and welding with **personnel** available at the **derailment** site. **Under** the conditions present **in** this case, Carrier has not violated the agreement.

FINDINGS: **The** Third Division of the Adjustment Board, upon the whole record and **all the** evidence, finds and holds:

That the **parties** waived oral bearing;

That the **Carrier** and the **Employee** involved **in** this dispute are respectively Carrier and Employee 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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Claim denied.

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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 **26th** day of May 1983.

