

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26338
Docket Number MW-26260

Herbert L. Marx, Jr., Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(The Chesapeake and Ohio Railway Company
(Southern Region)

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

(1) The Carrier violated the Agreement when it assigned junior Machine Operator **J.** Roland to perform overtime service on October 6, 1983 instead of using Machine **Operator** R. A. Hardee who was senior, available and willing to perform that service (**System** File C-TC-1954/MG-4415).

(2) Machine Operator R. A. Hardee shall be allowed three and one-half (3 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, qualified as a Class "A" Equipment Operator, was at work on October 6, 1983, during the day shift with Force 1210. At 11 A.M., another employee junior to the Claimant was assigned to operate an endloader and continued to do so through 3 1/2 hours of overtime work. Claimant seeks pay for such overtime work, which he claims should have been assigned to him on the basis of seniority and qualification.

There was no convincing contradiction to the Carrier's report that the Foreman **had** canvassed employees, including the Claimant, at 11 **A.M** and only the junior employee had expressed interest in assignment to the **end-**loader. The Carrier contends that the junior employee was properly assigned the overtime work, as provided in the Understanding on Application of Rule 28, which reads in pertinent part as follows:

"1. This [rule] is not to preclude continuing employees on duty (whether senior or not) to complete particular jobs or phases of work begun by such employees during the regular tour of duty, the judgment of the foreman or person in charge to govern as to whether employees who have begun particular jobs will be continued thereon."

This is clearly applicable **to** the facts here under review.

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

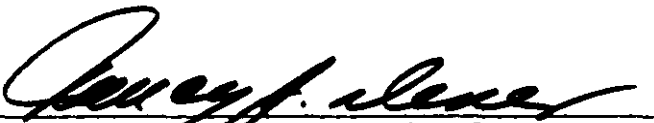
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 8th day of June 1987.