

NATIONAL RAILROAD **ADJUSTMENT** BOARD

THIRD DIVISION

Award Number 26405
Docket Number MW-26588

Robert W. McAllister, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(Consolidated Rail Corporation

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

1. The Carrier **violated** the Agreement when it assigned junior Welder G. F. Lockwood to perform overtime service on December 31, 1983 and January 7 and 14, 1984, instead of using Welder **R. L. Shivers**, who was senior, available and willing to perform that service (**System** Docket CR-876).

2. Claimant R. L. Shivers shall be allowed twenty-four (24) hours of pay at his time and one-half rate."

OPINION OF BOARD: This Board adopts the reasoning and findings set forth in Third Division Award 26403 and finds them applicable to the issues raised in this dispute concerning the viability of the March 9, 1977, Canton Shop Overtime Agreement.

The Carrier herein raises a procedural question asserting the Organization failed to claim a Rule violation and did not state how the Rule was **violated**. The Carrier's position is based upon the General Chairman's appeal dated July 22, 1984. The Board has reviewed that document and finds the General Chairman specifically explained that the Organization did not consider the March 9, **1977**, Agreement to be in effect at the Canton Shop and that that Agreement referred to Rule 4-E-Z which does exist in the current Agreement. The General Chairman further explained the appropriate Rule in this matter is Rule 17. He then explained why, under Rule 17, the Claimant, as the senior employee, should have been called. Based on this analysis, we find no merit to the Carrier's procedural reasonings and findings of Third Division Award 26403.

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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1987.