

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 26429

Docket No. MW-26004

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Southern Pacific Transportation Company
(Eastern Lines)

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

(1) The **Carrier** violated the Agreement when it assigned junior Machine Operator N. T. Cook to perform overtime service on October 27, 28, 29 and 30, 1983, instead of using Machine Operator F. A. Hasty, who was senior, available, qualified and willing to perform that service (System File MW-83-136/406-44-A).

(2) Claimant F. A. Hasty shall be allowed thirty-six (36) hours of pay at his time and one-half rate because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: The Organization contends that Claimant a senior heavy-duty Truck Operator, was bypassed for a driving assignment where 36 hours of overtime was earned. The assignment was given to a junior employe.

Carrier **contends** that when the junior employe was assigned the driving duties in question, Claimant had already been called for a job. It was only after the junior employe was two hours **into** his run that it was discovered that Claimant was available for work. Another employe had inadvertently been sent on Claimant's assignment.

After a review of this record, the Board finds it difficult to conclude that Carrier violated the Agreement when it assigned the **junior** employe to the disputed driving assignment. Claimant was not available for the call. He was already assigned to a job. Given this situation, the Claim has no merit.

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

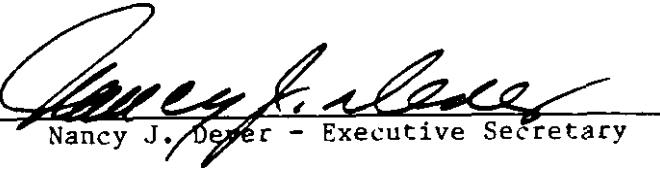
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1987.