

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26482
Docket Number MU-26401

Rodney E. Dennis, 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 used outside forces to perform machine operator's work in **connection** with a derailment at Wooster, Ohio on October 6, 1983 instead of using its available off-duty machine operators (System Dockets CR-675 and CR-676).

(2) Machine Operators R. Koteles and G. Gonzales shall each be allowed eight (8) hours of pay at **the** Class I Machine Operator's time and one-half rate and four and one-half (4 1/2) hours of pay at the Class I Machine Operator's double time rate."

OPINION OF BOARD: On October 6, 1983, Carrier had a derailment on the Main Line at Wooster, Ohio. Due to an emergency, Carrier used outside forces, as well as most of the men from the work train crew at Kent. Claimants were operating crawler cranes and could not be spared from the work train to work the derailment. When Claimants finished their regular day, they requested to be used on an overtime basis helping to clear the wreck. Carrier considered the request but concluded that no more men were needed at the wreck site. Since outside forces were in use at the wreck, a Claim was filed. That Claim has been processed to this Board for resolution.

The Board has reviewed the record of the case and has concluded that no Rule support exists to support the Organization's Claim. Carrier was faced with an emergency situation with a derailment on its Main Line. It moved to get it cleared as soon as possible. To this end, it employed outside forces.

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;

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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 9th day of September 1987.