

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26499
Docket Number MW-26353

Peter R. Meyers, Referee

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

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

(1) The Carrier violated the Agreement when it assigned Boilermakers to repair a Bridge and Building Department truck on February 6, 1984 (System File C-TC-2128/MG-4528).

(2) Because of the aforesaid violation, Roadway Equipment Repairmen **P. Bitler** and **J. Risher** shall each be allowed six (6) hours of pay at their respective straight time rates."

OPINION OF BOARD: As Third Party in interest, the International Brotherhood of Boilermakers and Blacksmiths were advised of the **pendency** of this case, but chose not to file a Submission.

On February 6, 1984, two Boilermakers repaired the bed of a truck at the **Backshop** in Grand Rapids, Michigan. The Organization subsequently filed a Claim, challenging the Carrier's assignment of this work to Boilermakers.

The Organization contends that under the Scope and Seniority Rules of the governing Agreement, certain work accrues only to the listed classes of employees, including the Roadway Machine and Equipment Repair and Service sub-department; Boilermakers are not included in the listed classes. The Organization argues that the work of repairing trucks accrues only to those employees who have established seniority in the Roadway Machine sub-department. **Moreover**, the disputed work historically has been performed by Roadway Machine Repairmen. The Organization contends that Carrier's assignment of this work to employees not covered by the Agreement is a violation of the Agreement.

This Board has reviewed the evidence in the record, and we find that the Organization failed to meet its burden of proof that the work at issue belongs exclusively to the Maintenance of Way Employees. In fact, there is evidence in the record that the Boilermakers have performed the disputed work in the past. Hence, the Claim must be denied.

FINDINGS: **The Third** Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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

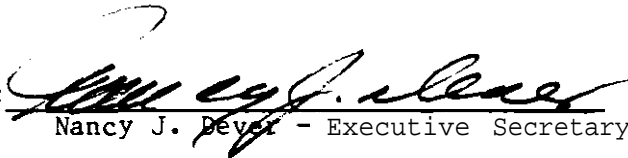
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.