

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award "as rendered.

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

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

(1) The Carrier violated the Agreement when it assigned Repairman K. Strabley to fill a temporary vacancy as foreman of the 'shipping crew' at the Canton Shop on July 29 and **30**, 1983. instead of assigning and using Foreman M. North who "as available, willing and qualified to fill that vacancy (System Docket CR-674).

(2) Because of the aforesaid violation, Mr. M. North shall be allowed four (4) hours of pay at the foreman's time and one-half rate."

FINDINGS:

The Third Division of the Adjustment Board **upon** the whole record and all the evidence, finds that:

The carrier or carriers and the **employee** or employees involved in this dispute are respectively carrier and employees within the meaning of **the** Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

During the second shift on July 29. 1983, Carrier determined that it would require the services of a temporary Foreman to supervise the loading and tie-down of machinery being shipped from its Canton MW Repair Shop. At **5:30** P.M., it upgraded the senior qualified repairman working on the shift to the temporary position. The upgraded repairman worked four hours of overtime. Claimant "as working his assigned Foreman's **position** during the second shift on the day involved. He contends he should have been used to work the **temporary** assignment, including the overtime.

This Board does not agree. The Organization failed to establish that any provisions of its Agreement were violated when a qualified repairman "as assigned **to work as a temporary** Foreman. There is no showing that, at the time of assignment, overtime "as anticipated.

Form 1
Page 2

Award No. 26829
Docket No. MW-26523
88-3-85-3-260

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Devel - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.