

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

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

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

(1) The Agreement was violated when, from September 4 through September 28, 1984, other than a Roadway Machine Operator Group employe was used to operate a tie handler in the vicinity of Peru, Indiana (System File C-TC-2172/MG-4908).

(2) Because of the aforesaid violation, furloughed Machine Operator R. Darland shall be allowed one hundred fifty-two (152) hours of pay at the Class A machine operator's 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 employe or employes involved in this dispute are respectively carrier and employes 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.

From September 4 through September 28, 1984, the Carrier assigned a B&B Mechanic to operate a Tie Handler machine in connection with installing new ties on a bridge near Peru, Indiana. The Claimant holds seniority as a Class "A" Machine Operator within the Roadway Machine Operator's group. Rule 66 (f) reads as follows:

"(f) Employees in the roadway machine operator group will be used to operate all of the so-called heavier machines used in the performance of track and bridges and structures work except Mole Ballast Cleaners (see Paragraph (b) above). The smaller machine tools, such as power saws, tampers, drills, etc. will be used by the craft or class doing the particular work the same as the craft or class uses hand tools in connection with such work."

The Organization argues that Rule 66 (f) requires the use of a Roadway Machine Operator for work on a Tie Handler, recognized as a "heavier machine." The Claimant holds seniority, is qualified, and was available for such work, being in furlough status at the time of the assignment.

The Carrier alleges the existence of practices under which employees are temporarily upgraded to the work in question. This is without effect in the face of the clear and unambiguous requirements of Rule 66 (f).

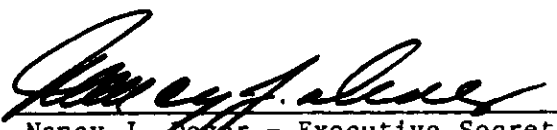
The Carrier's citation of Rule 13, concerning promotions, does not, in the Board's view, defeat the specific requirements of Rule 66 (f).

Third Division Award 26554 involved the same parties and concerned a virtually identical situation. The sustaining Award therein offers controlling guidance to this dispute.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September 1988.