

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation - (Amtrak)
Northeast Corridor

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

(1) The Agreement was violated when Lineman R. A. Tawny was not allowed nine (9) hours of overtime pay for each week of his vacation (June 17 through June 21, 1985) (System File NEC-BMWE-SD-1380).

(2) Lineman R. A. Tawny shall be allowed nine (9) hours of pay at his 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.

This Claim seeks additional compensation for Claimant while he was on vacation. It is alleged that during the six month period preceding his vacation, Claimant regularly worked overtime. Also, while on vacation, his Vacation Relief Worker worked overtime. Under the Agreement, the Organization contends, Claimant is entitled to be paid the daily compensation paid by the Carrier as if he had remained at work; this compensation should include overtime worked by the Vacation Relief Worker.

Carrier contends that the overtime worked by Claimant's Vacation Relief Worker was "casual and unassigned" and, as such, it is specifically excluded from inclusion in Claimant's Vacation pay allowance.

Form 1
Page 2

Award No. 28152
Docket No. MW-27536
89-3-86-3-793


We are not persuaded the Organization has established that the overtime Claimant's Vacation Relief Worker received was not casual and unassigned. Not only is the record unclear as to the regularity and nature of the overtime worked before and during the vacation period, but it is also confused with regard to the amount of overtime worked by the Vacation Relief Worker. Accordingly, we have no alternative but to deny the Claim for lack of proof.

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 16th day of October 1989.