

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  
(Burlington Northern Railroad Company

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

(1) The Agreement was violated when, on May 31 and June 3, 1985, respectively, Foreman Richard Bowman operated the tamper and ballast regulator on Gang 501 (System File B-1586-2/EMWC 85-9-30).

(2) The Agreement was also violated when the Carrier failed to bulletin the truck driver's position on Gang 501 and instead assigned Foreman Richard Bowman or Machine Operator Dale Haire to operate the truck on a regular daily basis beginning May 29, 1985.

(3) Mr. J. E. Rhodes shall be compensated for all wage loss suffered as a consequence of the violations referred to in Parts (1) and (2) hereof."

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.

The thrust of this Claim concerns Foremen doing machine operators work and driving a gang truck. On July 9, 1985, the Organization filed a Claim contending that a Foreman operated a machine on several dates and had driven a gang truck on several occasions. Carrier's Superintendent immediately asked that the Organization advise him of the specific dates and times of the alleged violations so that he could investigate the matter.

The Organization responded:

"On May 31, 1985 Richard Bowman ran the tamper and on June 3, 1985 he ran the regulator. Also, since May 29, 1985 the truck has been driven either by the foreman, Richard Bowman, or the operator of the gang."

After this response was received the Superintendent declined the Claim stating:

"Please be advised that I have checked payrolls on May 31, 1985, and June 3, 1985, and it does not show Mr. Bowman running the tamper or the regulator. Also I checked the payroll on May 29th, 1985 and it does not show Richard Bowman driving the truck or the operator driving the truck."

Thereafter, the matter was appealed, but the Organization never submitted proof in support of its Claim. For example, in the appeal letter the Organization stated that it could not agree with the declination, however, that is all that was stated. At that time, or later, it never submitted evidence in support of its disagreement with the Superintendent's statement on the facts.

The burden is on the party making a claim, that its Agreement is violated, to make a showing in support thereof. Allegation, without more, is not proof, nor can it be considered as adequate support for this Claim that the Foreman was doing work which should have been assigned to Claimant.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1990.