

The Third Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Soo Line Railroad Company

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

(1) The Carrier violated the Agreement when it called junior Burro Crane Operator S. Solum instead of Burro Crane Operator D. Frojen to fill a temporary relief position from November 30, 1987 until December 21, 1987 (System File R558 #1552F/800-46-B-302).

(2) The claim as presented by General Chairman G. Western on January 29, 1988 to General Manager Engineering G. A. Nilsen shall be allowed as presented because said claim was not disallowed by Mr. Nilsen in accordance with Rules 13-1(a) and (b).

(3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Mr. D. Frojen shall now be reimbursed for all time lost from November 30, 1987 through December 20, 1987 and have all overtime, vacation, fringe benefits and other rights restored which were lost to him as a result of the above violation."

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.

On the property, the Organization asserted that it did not receive a denial to its Claim in a timely manner, and it continued to press that contention to this Board.

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Award No. 28532
Docket No. MW-28778
90-3-89-3-167

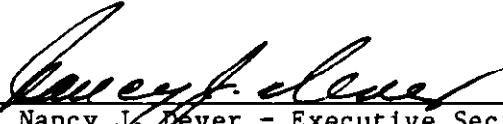
There is a conflict of record as to whether the Carrier did forward the document as mandated by the Agreement.

Third Division Awards 25100 and 25309 speak to the Carrier's evidentiary requirements and control this dispute.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of August 1990.