

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis 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, on February 20, 21, 22, 23, 24, 25, 26, 27, 28 and March 1, 1985, the Carrier used Supervisors D. Denny, E. Blair, J. Moore, J. Gaughie, J. Crawford, R. Esposito and P. Sturgill to install shelving at Delpro facilities (System File NEC-BMWE-SD-1337).

(2) B&B Foreman D. Cissin and B&B Mechanics R. Offschanka, M. Lancianese, J. Fabe, D. Nesci and P. Roscoe shall each be allowed forty-four (44) hours of pay at their respective time and one-half rates because of the violations referred to in Part (1) 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 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.

In February 1985, Carrier assigned seven non-Agreement Supervisors to the task of constructing and installing shelves at Carrier's Delpro facilities. The Organization contends that a B&B Foreman and five B&B Mechanics should have been assigned the work. The work was completed by the seven Foremen in sixty-four hours at the straight-time and forty-six hours at the overtime rate. The named Claimants each requested forty-four hours at the overtime rate because they were denied the work in question. The Division Engineer eventually paid the Claimants sixty-four hours on a straight-time basis. What is before this Board is the question of whether payment at the overtime rate is appropriate.

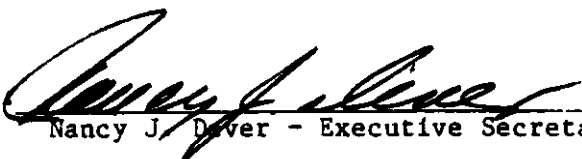
This Board has reviewed the many arguments and citations placed in the record by the parties. Based on this review, we are compelled to conclude that the more reasoned opinion on the subject weighs heavily in favor of Carrier paying straight time to successful claimants in cases involving loss of work opportunity. We see no reason to conclude otherwise in this instance.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 24th day of September 1991.