

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (United Steelworkers of America
(
(The Lake Terminal Railroad Company

STATEMENT OF CLAIM:

"Claim Number MW-1-90: This grievance was filed by Etanislao Rivera Jr., Unit Griever, on behalf of M. of W. department employees R. Irrizarry #186 Section Gang Leader and S. Santiago #10 Section Gang Burner. The claimants are grieving that the Company violated Rule 19: Overtime, section (h) and a 'past practice.' Details of the alleged rule violations are as follows: The above employees are claiming that on the date of January 2, 1990 the above grievants were awarded their present positions. They went from a 7:00 am- 3:00 pm shift to a 3:00 pm- 11:00 pm position which constituted a shift change. Employees in the past have been paid overtime for the first shift change according to Rule 19, (h). However, the Company has recently taken the position that Rule 19, (h) no longer applies in this type of shift change. Remedy sought for this violation; In addition to all other earnings and benefits, four (4) hours pay at their respective rates of pay for each employee involved."

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 essential facts and circumstances in this Claim are identical to those in Third Division Award 29099. We find here, as we did in that case and for the same reasons, that the Claim must be denied.

A W A R D

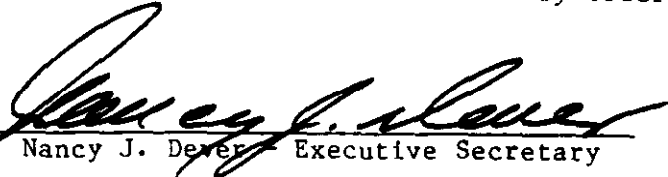
Claim denied.

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Award No. 29100
Docket No. MS-29435
91-3-90-3-324

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of January 1992.