

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29551  
Docket No. MW-29191  
93-3-90-3-45

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 Employes  
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier assigned junior Foreman P. Correnti instead of senior Foreman C. Nixon to perform overtime service in the Departure Yard at Oak Island and on the P&H Branch on October 22, 1988 (System Docket MW-229).

(2) As a consequence of the aforesaid violation, Mr. C. Nixon shall be allowed eight (8) hours of pay at his time and one-half overtime 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 employe or employes involved in this dispute are respectively carrier and employe 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 Claim date, Carrier used a Section Foreman to perform work on overtime in the Departure Yard at Oak Island, New Jersey. The Crane Foreman, who is senior to the Section Foreman, maintains that he was entitled to the overtime work by virtue of his superior seniority. Carrier contends that under the language of Rule 17, reading:

"RULE 17 - PREFERENCE FOR OVERTIME

Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them during the course of their work week or day in the order of their seniority."

it was proper to use the Section Foreman, rather than the Crane Foreman because the Section Foreman ordinarily and customarily performed the work required to be completed on overtime during the course of the workweek immediately preceding the need for overtime.

The Board agrees that Carrier's application of the Agreement is correct. Rule 17, clearly establishes a preferential entitlement to overtime work for the individuals who ordinarily and customarily perform the work during the course of their workweeks. If an employee ordinarily and customarily performs certain functions of work during his workweek and overtime is required for these functions of work, by the clear and unambiguous language of Rule 17, a superior entitlement is conveyed to the employee normally doing the work even though he may possess less seniority than others who may also be available.


The Claim is without merit, it will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 9th day of March 1993.