

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31215  
Docket No. MW-31716  
95-3-93-3-764

The Third Division consisted of the regular members and in addition Referee Robert L. Hicks 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 Mr. J. Panseri to perform Class 2 Machine Operator's work (operate a front end loader) at Shire Oaks Yard, Pittsburgh District on May 22, 1992 instead of assigning Class 2 Machine Operator J. Peterson (System Docket MW-2737).
- (2) As a consequence of the violation referred to in Part(1) above, Class 2 Machine Operator J. Peterson shall be allowed eight(8) hours pay at his time and one-half rate and the expense allowance for that date".

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 employee 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 Organization's main argument is that the Truck Driver called to work on his rest day, who loaded his own truck with a front-end loader was not a qualified C1-2 Machine Operator, thus Carrier should have called Claimant, who did have a C1-2 classification and could have operated the front-end loader.

Carrier stated the Truck Driver did have the proper license but that thru an oversight his MW-200 card was not marked accordingly.

There is nothing in the files by the Organization to rebut Carrier's position. The Truck Driver was called pursuant to Rule 17 because he did haul ballast on the work day preceding the rest day. Claimant was not loading trucks on the work day preceding the rest day but was operating a back-hoe.

No Rule has been cited that precluded Carrier from utilizing the services of the Truck Driver on his rest day in the manner it did.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of November 1995.