

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31252  
Docket No. MW-30977  
95-3-92-3-885

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(Southern Pacific Transportation Company  
( (Western Lines)

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

- (1) The Agreement was violated when the Carrier abolished a System Work Equipment Subdepartment helper position, assigned to Crane SPO 168, on August 16, 1991 and thereafter assigned to either Messrs. J.L. Gonzalez, W. Vickers or W.C. Thompson to perform helper's work (relaying signals to operator, hooking rail tongs, wrapping and hooking chocker cables and looking out for overhead wires) while assisting Crane Operator G.W. Kubo in the performance of his duties beginning August 26, 1991 and continuing (Carrier's File MofW 152-1181 SPW).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant P. Colbert shall '\*\*\* be paid \$21.60 per day, (90 miles times 24¢) for the expense of driving round-trip between Bakersfield, his home, and Tehachapi, a job he was required to take after his abolishment, from August 26, 1991 until such period as he is allowed to return to the S.P.O. 168' "

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.

At the outset, the Organization has raised procedural objection to new evidence supplied by the Carrier in its Submission to the Board. Such material will not be considered by the Board in its deliberations.

This case arose when Carrier directed that Crane SPO 168 be attached on a flat car to use in work train service. Once the process was completed, the crane became stationary on the flat car and unable to travel under its own power. Following the mounting of the crane, Carrier abolished Claimant's position of helper on SPO 168 on August 16, 1991. By letter of October 7, 1991, the Organization filed a claim alleging that Carrier violated numerous rules when it "allowed Track Sub-department and System Track Welding Sub-department personnel to do the work of System Work Equipment Sub-department personnel." Carrier denied that claim on November 15, 1991, and it was then processed in the usual manner.

It is the position of the Organization that Carrier erroneously abolished Claimant's position and then reassigned the work he had been doing to other employees, not entitled to perform the work in question. Carrier maintains that, once Crane SPO 168 was immobilized, the position of Helper -- which included driving the crane when it was mobile -- was no longer needed.

A careful review of the record supports Carrier's position. It is unrefuted on the record that mounting Crane SPO 168 rendered it immobile. The burden of persuasion is on the Organization to demonstrate that, despite the crane's immobility, the duties of the position of Helper are still being performed on Crane SPO 168. It has not met that burden.

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.