

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31504
Docket No. MW-32073
96-3-94-3-448

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
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(Elgin, Joliet and Eastern Railway Company

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

- (1) The Agreement was violated when the Carrier assigned Welder Foreman G. Karalis to perform welder's work at #4 Blast Furnace in the USX Mill at Gary, Indiana on March 4, 1993 (System File TM-19-93/TG-702-93).
- (2) As a consequence of the violation referred to in Part (1) above, Welder J. Karacony shall be allowed one and one-half (1-1/2) hours' pay at the welder's time and one-half 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 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.

On March 4, 1993, the Claimant and the Foreman were performing welding work on the track at No. 4 Blast Furnace at the USX Plant in Gary, Indiana. The work began around 12:30 P.M. At the conclusion of the shift some more work needed to be done. The Claimant's work day ended at the end of the shift. The Foreman continued to work an additional hour and one-half. The instant claim was filed claiming that the Welder should have been used and not the Foreman. The Organization claims the Carrier improperly used the Welder Foreman to perform welding work.

The Carrier argues that its Foremen have historically been working Foremen. It cites instances when the Organization has attempted to limit the Foreman to supervisory duties only.

The Organization has the burden to prove the Agreement has been violated. It cites numerous Rules that allegedly have been violated. However, after a close review of the Rules, none of them prohibit the Welding Foreman from welding. The Organization also fails to show that the overtime Rules were violated.

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 23rd day of May 1996.