

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31516
Docket No. MW-30790
96-3-92-3-595

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn 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, on May 6, 1991, the Carrier utilized Machine Operator M. Sangrey, instead of assigning I&R Foreman D. L. McCormick, to remove trees and inspect track after storm damage on the Port Road Branch, Harrisburg Division (System Docket MW-2008).
- (2) As a consequence of the violation referred to in Part (1) above, I&R Foreman D. L. McCormick shall be allowed thirteen (13) hours' pay at his applicable I&R Foreman's overtime rate of pay."

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.

Claimant is an I&R Foreman. M. Sangrey is a Machine Operator. Due to a violent storm on May 6, 1991 Sangrey, and not Claimant, was called to work.

The Organization asserts that Sangrey performed track inspection work which should have been performed by Claimant. The Carrier asserts that Sangrey was not called to patrol track, but was called due to an emergency created by the storm; Sangrey was used to clear storm damage (fallen trees) from the track; Sangrey was called because he lived close to the headquarters; and Claimant was not called because he lives distant and it would have taken Claimant several hours to drive from his home to headquarters and then to the locations where the trees were down.

The record sufficiently establishes that an emergency existed. Moreover, the Organization has not sufficiently demonstrated that Sangrey performed track inspection work rather than removal of fallen trees resulting from the storm.

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 20th day of June 1996.