

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32033  
Docket No. CL-32748  
97-3-95-3-474**

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

**(Transportation Communications International Union  
PARTIES TO DISPUTE: (  
(Western Weighing & Inspection Bureau**

**STATEMENT OF CLAIM:**

**"Claim of the System Committee of the Organization (GL-11170) that:**

- 1. The Western Weighing and Inspection Bureau violated Rules 4, 5, and 9 among others of the agreement when it used a junior employe Mr. D. C. Holmes instead of claimant Robert Hall.**
- 2. The Bureau shall now compensate Robert Hall for forty (40) days at the pro rata 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 were given due notice of hearing thereon.**

This claim concerns the Bureau's usage of a junior employee rather than Claimant during the period of January 17 through and including March 17, 1995 to perform a number of duties such as, but not limited to, conducting accuracy tests on the scales of various customers and railroads in Texas. The Organization alleges that Claimant, as the senior employee, was entitled to the work and should have been assigned.

The Board has reviewed the record and determined that the merits have become moot because the Bureau officially went out of business on September 29, 1995 leaving no entity available for resolution of the alleged violation. Notwithstanding the foregoing, application of the facts in this record to the Rules cited fails to support a conclusion that the Rules were violated. Accordingly, we conclude that the Agreement was not 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 6th day of May 1997.**