

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 32441

Docket No. MW-31254

98-3-93-3-261

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

(Brotherhood of Maintenance of Way Employes

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Foreman R. R. Henry to perform welder helper's work (burning and cutting bolts and rail) in the Conway Yard, Conway, Pennsylvania on October 21, 22, 23 and 24, 1991, instead of assigning cutback Welder Helper G. Little to perform said work (System Docket MW-2442).
- (2) As a consequence of the violation referred to in Part (1) above, Welder Helper G. Little shall be allowed '... ten (10) hours pay for days listed, all overtime, credit for the days and months and to be made whole.'"

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.

On the four dates involved in this claim, Carrier utilized Timber Gang Foreman R. R. Henry to perform a limited amount of cutting and burning duties in connection with a rehabilitation project at No. 5 Hump, Conway Yard, rather than recall Claimant, a furloughed Welder - Helper for the work. Carrier contends that it was privileged, under Rule 19 of the Agreement, to use the Foreman for this work on a temporary basis, as it was within the range of his ability.

The Board concludes that the Agreement was not violated when the Timber Gang Foreman was temporarily assigned tasks of cutting and burning in addition to his Foreman responsibilities. Carrier was privileged to make such a temporary assignment of additional duties, by the explicit language of Rule 19. The claim is without merit. It will be denied.

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 21st day of January 1998.