

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32718
Docket No. TD-33251
98-3-96-3-680**

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

**(American Train Dispatchers Department/International
(Brotherhood of Locomotive Engineers**

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"Consolidated Rail Corporation (hereinafter referred to as 'the Carrier') violated the current effective agreement between the carrier and the American Train Dispatchers Department (hereinafter referred to as 'the Organization'), Rule 5 in particular when the Carrier on January 25, 1995, failed to call dispatcher P. R. Houle to perform service as senior dispatcher available to fill a vacancy on position 3rd trick ACTD - 1 (Mohawk). Junior dispatcher K. J. Tardiff was used instead at the overtime ACTD rate.

The Carrier shall now compensate dispatcher P. R. Houle eight (8) hours at the overtime ACTD rate account he was entitled to this work but was not called."

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 January 25, 1995, a vacancy occurred on the third trick, Mohawk ACTD in Carrier's Selkirk, New York, office. An employee junior to Claimant who was working second trick was used for the vacancy. The Organization maintains that Claimant should have been called and is entitled to eight hours at the time and one-half rate.

The Organization, however, offered no evidence during handling on the property that Claimant was qualified for the vacancy. Indeed, it appears from the record that there was no dispute that Claimant had never worked as an Assistant Chief Train Dispatcher and that he was not qualified for the position. Therefore, the claim must be denied because Claimant is not a proper Claimant.

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 19th day of August 1998.