

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32884
Docket No. CL-33647
98-3-97-3-112**

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

PARTIES TO DISPUTE: (
(Transportation Communications International Union
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-11689) that:

Claim is on behalf of Mr. P. J. O’Toole, Clerk, Portland, Maine, for Tuesday, October 4, 1994, eight (8) hours at time and one half.

Carrier violated Rules 5, 6, 8, 9, 16, 17, 18 and 21, of the Agreement between Maine Central Railroad Company (Springfield Terminal Railway Company) and the Transportation•Communications International Union, when it took a junior employee off a hold down clerk’s position and allowed him to cover Mr. Cosgrove’s job on the above date.

Claim is valid and should be paid.”

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 claim date the Claimant was assigned as Yard Clerk at Rigby Yard, South Portland, Maine, from 3:00 P.M. until 11:00 P.M. The Carrier filled the 6:00 A.M. position at Rigby Yard with the senior unassigned Clerk.

The Organization takes the position that the unassigned Clerk was on a hold down position and should not have been used. It further states the Clerk was paid overtime for the work on October 4, 1994.

The Carrier argues that the unassigned Clerk was not on a hold down job as illustrated in the October 1, 1964 Letter of Agreement. It also points out that overtime was not paid on the 6:00 A.M. job.

The Organization has not shown how the unassigned Clerk was restricted from filling the 6:00 A.M. job. The Organization has failed to meet its burden of proof that the Agreement was 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 21st day of October 1998.