

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 33483  
Docket No. MW-33017  
99-3-96-3-413

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

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees  
(Consolidated Rail Corporation)

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier assigned Machinists S. Pahls, T. Baker, and R. Barlow, who are represented by the IAM, to perform repairs to Maintenance of Way equipment on the track at Collinwood Yard, Cleveland, Ohio, on December 22, 1994 through January 19, 1995 (System Docket MW-3831).

(2) As a consequence of the violation referred to in Part (1) above, Repairmen V. Paul, R. Smalley and J. DeStefano shall each be allowed eight (8) hours' pay for each date from December 22, 1994 through January 19, 1995 and for the Christmas and New Year's Holidays at the applicable repairman's rate and they shall each receive credits for the benefits therewith.”

**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.

As Third Party in Interest, the International Association of Machinists and Aerospace Workers was advised of the pendency of this dispute and filed a Submission with the Board.

The instant claim concerns repairs made on Carrier's Maintenance of Way equipment by employees represented by the International Association of Machinists at Carrier's Collinwood Yard in Cleveland, Ohio. The Organization contends that Carrier violated the Agreement by its failure to recall Claimants and to have them perform the repairs.

A December 15, 1981 Maintenance of Way Repair Shops Agreement among Carrier, the Organization and the IAM provided for the consolidation of Repair Shops and determination of which Craft would represent the employees at such shops. The Agreement specified that Maintenance of Way Repairmen in the Western Region would come under the jurisdiction of the IAM and would be governed by Carrier's Agreement with the IAM.

The work in question was performed at Collinwood Yard in Cleveland, Ohio. There is no dispute that Cleveland, Ohio, was in Carrier's Western Region. Accordingly, the Organization has failed to carry its burden to prove that the work in question was subject to its jurisdiction. See Third Division Award 31703.

**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 22nd day of September 1999.