

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33621
Docket No. MW-32322
99-3-95-3-156**

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

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(National Railroad Passenger Corporation (Amtrak)
(Northeast Corridor)**

STATEMENT OF CLAIM:

“Claim on behalf of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Drawbridge Tender G. Alaimo to perform overtime service repairing and maintaining dock and portal bridges on September 22, 23, 24, 25, 27, 28 and 29, 1993 instead of assigning B&B Mechanic S. Brownlee to perform said work (System File NEC-BMWE-SD-3357 AMT).**
- (2) As a consequence of the violation referred to in Part (1) above, B&B Mechanic S. Brownlee shall be allowed ‘. . . 72 hours at the B&B mechanic's overtime rate of pay ***’ and ‘72 hours differential between B&B mechanic and Bridge Repairman for each day he worked since 9/10/1993. ***’”**

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 dates in question, the Foreman and Structural Welder, assisted by the Bridge Tender, performed maintenance and repair work on dock and portal bridges in Newark, New Jersey, on an overtime basis. The Organization maintains that the Claimant, a B&B Mechanic should have been offered the overtime instead of the Bridge Tender.

The Organization bases its claim on a comparison of the descriptions of the two positions in the Classification of Work Rule. However, the Organization has the burden to prove a violation of the Agreement. To carry its burden, the Organization must show the specific work that was performed by the Bridge Tender on the dates in question and that the Agreement would prohibit the Bridge Tender from performing that work and would require that it be offered to the Claimant. Our review of the record reveals that the Organization has failed to carry its burden of proof. Accordingly, the claim must 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 16th day of November 1999.