

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34008
Docket No. MW-32344
00-3-95-3-183**

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Burlington Northern Railroad Company
((former St. Louis - San Francisco Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned five (5) trackmen driver positions to the Cuba Gang, Cuba, Missouri, which is assigned only three (3) trucks, and assigned two (2) of the trackmen drivers to perform track laborer’s work instead of allowing Trackman G. Berendt to remain on that gang to perform the track laborer’s work (System File B-1818-2/MWC 94-02-10AA SLF)**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant B. Berendt shall be paid mileage to and from Cuba, Missouri and St. Louis, Missouri beginning January 10, 1994 and continuing until the violation ceases.”**

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.

The Claimant was at all material times herein a Trackman assigned to the Cuba gang at Cuba, Missouri, which used three trucks. However, five Trackman Drivers were assigned to the gang with the three most senior assigned to drive the trucks and the other two assigned to perform Trackman duties. As a result of a force reduction, the Claimant displaced to another gang at St. Louis, Missouri. The Organization contends that by virtue of the Claimant's seniority as a Trackman the Carrier could not assign Trackman Drivers to perform the work that he would have otherwise performed and cites various Awards in support of its claim. In addition, it argues that this instance is but one example of a systematic effort on the Carrier's part to abolish Trackman positions. The Carrier on the other hand argues that nothing in Rule 18 prevents the Carrier from making the work assignment that it made and that the Claimant was bumped by a senior Trackman. Thus, the Claimant's circumstances were nothing more than the proper operation of relative seniority.

We too find nothing in Rule 18 that prevents the Carrier from making the assignment of Trackman work to Trackman Drivers and note moreover that the record shows that on this property it is customary that Trackman Drivers have dual duties that also involve Trackman work. Similarly, the Awards cited by the Organization are distinguishable in that they involve the assignment of work from positions that had been abolished, a fact that did not occur in the instant dispute. Finally, there is no record evidence to support the Organization's claim that the Carrier is systematically abolishing Trackman positions.

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 April, 2000.