

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 36296  
Docket No. MW-36440  
02-3-00-3-709

The Third Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

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

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed to call and assign B&B Foreman M. Lancianese and B&B Mechanics M. Bremer and D. Provence on July 17 and 18, 1999 and instead assigned junior employees to perform overtime service (drywall, ceiling tile and painting work) at the West Yard Training Center in Wilmington, Delaware (System File NEC-BMWE-SD-3979 AMT).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants M. Lancianese and D. Provence shall now each be compensated for thirty-two (32) hours' pay at their respective time and one-half rates of pay and Claimant M. Bremer shall now be compensated for thirty (30) hours' pay at his respective time and one-half rate of pay.”

**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.

This claim raises the issue of whether the Carrier's assignment of rest day overtime service installing drywall, painting and installing drop ceiling tiles in the new West Yard Training Center to a B&B Foreman and Mechanics less senior than the Claimants, violates their seniority rights. The Claimants and the junior employees assigned the overtime were regularly headquartered at Wilmington Station, not at the West Yard Training Facility where the overtime work was performed. The Claimants were members of Maintenance Gang C-122; the junior employees assigned the overtime were members of the Wilmington Station Construction Gang which falls under the same responsibility Center, the same supervisor and manager, and within the same zone as the West Yard Training Facility employees.

Except as to date, the Claimants, and specific type of work, this dispute is identical to that reviewed by the Board in Third Division Award 36295, and the Board reaches the same conclusion.

**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 28th day of October 2002.**