

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 37301
Docket No. MW-37004
04-3-01-3-639

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

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Duluth, Missabe and Iron Range Railway Company

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 Composite Mechanic R. Tanski to perform overtime service (make repairs to the Oliver Bridge) on July 22, 2000 and instead assigned junior employees M. Thudin and W. Gordon (Claim No. 30-00).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R. Tanski shall now be compensated for eight (8) 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.

On July 21 the Carrier determined a need to have a crew of Mechanics perform overtime bridge repair work on Saturday, July 22, 2000. When Foreman R. Lambert advised the crew of the opportunity at the end of the shift on July 21, the Claimant was not present, but was in the shower and did not hear the call for overtime. Upon his emergence from the shower, the Claimant was not advised of the opportunity by his fellow employees. As a result, two junior employees (one being the General Chairman) were given the overtime assignment. The Claimant now seeks compensation for the lost overtime opportunity.

The Carrier met its obligations to advise the crew of the overtime opportunity. At the time the notice was given to the employees, the Claimant had absented himself by taking a shower. We find that under the circumstances, the Carrier made a bona fide attempt to advise all employees of the overtime opportunity. The Carrier cannot be faulted.

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 December 2004.