



Award No. 18809

Docket No. MW-19247

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
THE ILLINOIS CENTRAL RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned Painter J. J. Hall instead of Machine Operator E. J. Smith to operate a Burro Crane to load and unload telephone booths on February 7, 10 and 11, 1969. (System File SLN-88-B-69/Case 637)

(2) Machine Operator E. J. Smith be allowed twenty-four (24) hours' pay at the Burro Crane operator's rate because of the violation referred to within Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: Claimant E. J. Smith holds seniority as a machine operator within Group 1 of the Carrier's Roadway Machine Department. On the three days involved here, he was assigned to operate a Back Hoe which is a machine within Group 4 of the Track Sub-department.

Because of the abandonment of its communication facilities between Wolf Lake and Carbondale, Illinois, the Carrier decided to store a number of telephone booths at Carbondale. To this end, it assigned Painter J. J. Hall, who has no seniority whatsoever within the Carrier's Roadway Machine Department, to operate a burro crane used to load, transport and unload the telephone booths. Mr. Hall performed this work on February 7, 10 and 11, 1969, and was compensated therefor at the painter's rate of pay.

The claimant was available and fully qualified to have performed this work if the Carrier had so desired.

The rules controlling here include Rule 2 and 3 which, insofar as they are pertinent hereto, read:

"RULE 2. (A) Seniority rights of all employees are confined to the sub-departments in which employees except Group 1, Roadway Machine Department. Sub-departments are defined as follows:

1. Track Department
2. Bridge and Building Department

At that time, all machine operators were operating machines in the performance of other necessary work. Maintenance of Way Painter J. J. Hall had evidenced an interest in being assigned to operate a machine, was qualified to operate a burro crane and was available to perform the work. In order to avoid delays to the work, the company assigned him to collect the telephone booths and deliver them to Carbondale, Illinois.

The correspondence is attached as Company's Exhibit A.

(Exhibits not reproduced.)

OPINION OF BOARD: The evidence presented by the Petitioner in the handling of the dispute on the property would not warrant a sustaining Award. The claim will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 12th day of November 1971.