

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19821  
Docket Number MW-19775

Burl E. Hays, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(The Texas and Pacific Railway Company

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

(1) The Carrier violated the Agreement when it assigned Midland Valley Railroad Company employees to perform overtime service on the Kansas, Oklahoma & Gulf Railway Company in the vicinity of Allen, Oklahoma on October 10, 1970 (System File K-310-79).

(2) Messrs. G. W. Hall and K. R. Austin each be allowed fifteen and one-half (15-1/2) hours of pay at their respective time and one-half rates and one (1) hour of pay at their respective double time rates and Messrs. B. Wright, G. E. Jumper, C. L. Ford and E. W. Ivey each be allowed sixteen (16) hours of pay at their respective time and one-half rates and one-half (1/2) hour of pay at their respective double time rates because of the violation referred to in Part (1) hereof.

OPINION OF BOARD: Claimants are regularly assigned to Extra Gang No. 401 headquartered at Muskogee, Oklahoma. A washout occurred in the vicinity of Allen, Oklahoma. Carrier assigned Extra Gang 401, on whose territory the washout occurred, and track crews from another seniority territory. Claimants' Gang worked from 7:00 A.M. on October 9, 1970 until released at 7:30 A.M. on October 10, 1970. The Stigler Gang, from the other seniority territory, who also commenced service at 7:30 A.M. October 9, 1970, were released around midnight after sixteen and one-half (16½) hours' service and returned at 7:00 A.M. on October 10, 1970, relieving members of Extra Gang No. 401 who had completed twenty-four (24) hours' service. The Stigler Gang completed the necessary repairs after sixteen and one-half (16½) hours of service on October 10, 1970. It is the contention of Claimants of Extra Gang No. 401 that they should have been permitted to continue work on October 10, 1970 and to have received the additional overtime because said work was on their seniority district.

The record in this case shows that Carrier relieved the Stigler Gang after sixteen (16) hours' work; retaining Extra Gang No. 401 until 7:00 A.M. the following morning. It is apparent that the emergency duration, being unpredictable, necessitated recalling the Stigler Gang to provide rest for the regular forces who had been on continuous duty for twenty-four (24) hours.

Upon the record presented, we find that Extra Gang No. 401, as it was composed, were accorded work rights within their work efficiency. We find no basis on the facts of record for an affirmative Award and will dismiss the claim.

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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 claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Killian  
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June 1973.