

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20008
Docket Number MW-19924

Burl E. Hays, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Missouri-Kansas-Texas Railroad Company

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

(1) The Carrier violated the Agreement when it assigned Track Laborer B. A. Moser instead of senior Track Laborer J. H. Buckner to fill the position of foreman on Extra Gang 484 during the period July 14 to August 11, 1971 inclusive (System File 300-109/2579-4).

(2) Track Laborer J. H. Buckner be allowed the difference between what he would have been paid at the extra gang foreman's rate and what he was paid at the track laborer's rate because of the violation referred to within Part (1) of this claim.

OPINION OF BOARD: The alleged claim presented by the Organization to the Board is not the same claim initially presented to Carrier and handled throughout all stages of appeal on the property up to, and including, the highest officer of the Carrier designated to handle claims.

The record is clear that the claim handled on the property alleged that the Agreement was violated when the position of Foreman of Gang No. 484 was blanked. The claim presented to the Board alleges a violation of the Agreement when Carrier assigned B. A. Moses instead of J. H. Buckner to the position of Foreman of Gang 484.

The Awards of this Board are numerous and consistent in upholding the basic and fundamental principle that if the claim as submitted to the Board does not encompass the claim handled on the property, then such claim should be dismissed. (See Awards 15063, 15847, 18480, 19564.)

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.

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Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. W. Paulson
Executive Secretary

Dated at Chicago, Illinois, this 31st day of October 1973.