

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22306  
Docket Number MW-22270

Don Hamilton, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(Illinois Terminal Railroad Company

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

(1) The Agreement was violated when, on August 3, 1976, the Carrier called and used B&B Foreman Wiser to perform B&B mechanic's work during overtime hours instead of calling and using B&B Mechanic James Roark therefor (System File ITRR-1976-26).

(2) As a consequence of the aforesaid violation, B&B Mechanic James Roark shall be allowed nine (9) hours of pay at his time and one-half rate."

OPINION OF BOARD: In this case it was necessary to replace a bridge cap after regularly assigned hours. The Bridge and Building Gang No. 51 was called, but was unable to obtain a sufficient number of employees to perform the work. Therefore, the Foreman and one Mechanic from Bridge and Building Gang No. 54 were called and used.

It is the contention of the Claimant that the Foreman performed the work of a Mechanic and, therefore, the Mechanic Claimant seeks compensation for nine hours at his time and one-half rate.

The Carrier defends on the basis of emergency and asserts that the Foreman was closer to where the work needed to be performed than was the Claimant.

The Organization points out that it is pure speculation as to whether the Foreman or the Claimant could have arrived at the trouble spot first.

The record indicates that an emergency situation did exist and that the Carrier contacted the person it believed to be closest to the scene. Under the circumstances presented in this case, we find no fault with the action of the Carrier and accordingly deny the claim.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of February 1979.