

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23071  
Docket Number MW-22497

William M. Edgett, Referee

PARTIES TO DISPUTE: { Brotherhood of Maintenance of Way Employees  
{ Seaboard Coast Line Railroad Company

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

(1) The Agreement was violated when a trackman junior to Trackman L. H. Penton was called and used for overtime service on September 3 and 4, 1976 and, as a consequence thereof

(2) Claimant L. H. Penton shall be allowed nine (9) hours and fifty (50) minutes of pay at his time and one-half rate (Total \$80.84). (System File C-4 (36) - LHP/12-26 (77-10) J2)"

OPINION OF BOARD: Claimant was called for overtime service because of a derailment but his foreman was unable to reach him. Carrier decided not to clear the wreck immediately and the men who reported were paid a call. They were brought in on the following day, a Saturday, and cleared the derailment. Claimant was not called for the Saturday service and a junior man was used.

The record shows that his foreman called, but was unable to reach Claimant on September 3. His claim for that date will be denied. Claimant was not called for service on September 4, his claim for that date will be sustained.

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 Employee involved in this dispute are respectively Carrier and Employee 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

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That the Agreement was violated.

A W A R D

1. The claim for September 3 is denied.
2. The claim for September 4 is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

A. W. Pauls  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of November 1980.

