

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23885
Docket Number CL-23438

Joseph A. Sickles, Referee

PARTIES TO DISPUTE:

{ Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight Handlers, Express and Station Employees
{ Baltimore and Ohio Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9016) that:

(1) Carrier violated the terms of the Agreement between the Parties when it failed and refused to use Mr. L. G. Metz, the senior, available, qualified employee, to fill a vacancy at overtime rate on Sunday, October 16, 1977, at Burnsville Junction, West Virginia, and

(2) Because of such impropriety, Carrier shall compensate Claimant L. G. Metz eight (8) hours' pay for the date of October 16, 1977.

OPINION OF BOARD: The Claimant had submitted a request to work overtime on all positions, but on the claim date a less senior employee was used. On the property, the Carrier defended its position by making, among other defenses, that "... had the Claimant been used, it would have prevented him from working his own regular assignment the following morning under the Hours of Service Law."

A similar claim was presented to this Board and denied in Award 23532, and that Award (between these same parties) disposes of this dispute.

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.

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Docket Number CL-23438

Page 2

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By



Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 13th day of May, 1982.

