

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 23948
Docket Number CL-24231

George S. Roukis, Referee

PARTIES TO DISPUTE: {
{ Brotherhood of Railway, Airline and Steamship Clerks,
{ Freight Handlers, Express and Station Employees
{
{ Maine Central Railroad Company
{ Portland Terminal Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(GL-9506) that:

(1) Carrier violated the Agreement between the parties, when it assigned work and overtime of thirty-four (34) hours at time and one-half and fifteen (15) hours at double time pay Steep Falls, Vermont, May 5, 1980, 3:00 AM to May 9, 1980, to junior employee, Store Helper - Laborer.

(2) Carrier shall compensate Timothy E. Savasuk, Store Helper - Laborer, thirty-four (34) hours at time and one-half and fifteen (15) hours at double time pay, May 5, 1980, 3:00 AM to May 9, 1980, Steep Falls, Vermont, account Carrier delegated work and overtime to junior employee.

OPINION OF BOARD: Claimant, a Senior Store Helper-Laborer, contends that Carrier violated the controlling Agreement, particularly Rules 3, 5, 6 and 16 thereof, when it assigned work and overtime as Store Helper-Laborer to a junior employee between May 5, 1980 and May 9, 1980. He asserts that he should have been assigned to the Vac-U-Vator team at the Steep Falls, Maine derailment, since he was the senior qualified employee available to perform this work and argues that he covered similar assignments on the Vac-U-Vator team in the past in accordance with on situs practice.

Carrier contends that common laborer's work was needed at the derailment location and it called the lower rated laborer first when this type of work was required. It argues that it has always been the practice to call the lower paid unassigned laborers first when a common laborer was needed and its assignment of the junior employee was not a violation of the Agreement. It avers that Claimant's contention that seniority was used when a senior employee was previously called to move the Vac-U-Vator is without precedential effect, since the selection decision in that case was based upon the fact that the senior employee had a class I driving license.

In our review of this case, we concur with Carrier's position. Basically, the pivotal question before this Board is whether Carrier was obligated to assign the contested work to employees first within the job classification needed and listed on the Stores Laborers' Roster or to the most senior employee listed on that Roster. The Stores Laborers' Roster which contains twenty four (24) names shows that nine (9) employees are common laborers, who are paid the same rate and required to do whatever straight laborers work occurs in the Stores Department. The remainder of the employees hold specific higher paying positions. Since it was the practice to assign

work first to employees within their respective job classifications, it was not improper or a violation of the Agreement to assign the junior employee to perform common laborers work at the Steep Falls, Maine derailment. The record clearly shows that the parties consistently observed this format of assignment and as the lower paid unassigned laborer, it was permissible to call a laborer to perform the laborer's work at the aforesaid location.

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.

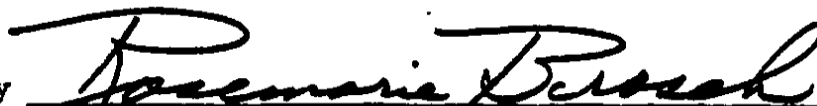
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 14th day of July 1982.

