

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25579

Docket Number MW-25621

Stanley L. Aiges, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Southern Pacific Transportation Company
((Western Lines)

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

(1) The Carrier violated the Agreement when, on each workday from June 16, 1982 through July 23, 1982, both dates inclusive, it assigned and used Track Department Laborers to assist Welders L. Gerhart and A. F. Irene instead of recalling furloughed Welder Helpers R. Mason and M. L. Simental (Carrier's File MofW 147-62).

(2) Welder Helpers R. Mason and M. L. Simental shall each be allowed two hundred thirty-six (236) hours of pay at the welder helper's rate because of the violation referred to in Part (1) hereof.

OPINION OF BOARD: Between June 16, 1982, and July 23, 1982, the Carrier assigned two Laborers from its Track Subdepartment to accompany and assist two Welders from its Track Welding Subdepartment. The Claimants contend that they should have been recalled to service from furlough to perform the work assigned to the Laborers.

This is, at root, a Scope Rule dispute. Awards of this Division have frequently held that in order to prevail in such a dispute, the Organization bears the burden of showing entitlement to the disputed work on the basis of a specific provision of the Agreement, or on the basis of an exclusive system-wide practice. See Third Division Awards: 23211; 24853; 25136; 25177. Indeed, the Organization's burden is heavier still when, as here, the jurisdictional dispute centers upon Employees of the same Craft in different classifications represented by the same Organization. (See Award Nos. 13083, 13198.)

The record reveals that the Laborers assigned to work with the Welders during the period in question were used only as lookouts. They were assigned to the Welders, in short, for safety reasons while the Welders performed their normal duties. Welder Helpers may well perform such work. But nothing in the Agreement establishes that lookout duties are reserved exclusively to them. Nor does the record reflect a system-wide practice reserving such work exclusively to them.

Under the circumstances, we must hold that the Organization has failed to meet its burden of proof. The claim here, accordingly, must be denied.

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

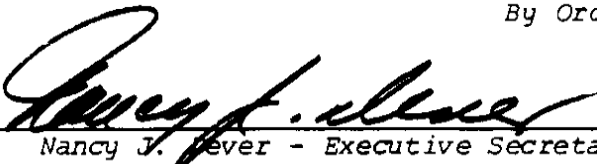
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of August 1985.

