

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25882  
Docket Number MW-25469

Lamont E. Stallworth, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(  
(City of Prineville Railway Company

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

(1) The Carrier violated the Agreement when it failed and refused to allow Machine Operator R. R. Smith pay at the machine operator's rate for the work he performed and for holiday and/or vacation pay for certain hours and dates during November and December, 1982 and January and February 1983 (System File CofP 103C).

(2) Claimant R. R. Smith shall be allowed the difference between what he should have received at the machine operator's rate and what he was paid at the trackman's rate for 222.83 hours."

OPINION OF BOARD: The controlling Rule in the Agreement is Rule 31. It provides as follows:

"Rule 31: Composite Service

An employee working on more than one class of work on any day will be allowed the higher rate of pay for the actual time worked in the higher rated position. When temporarily assigned by the proper officer to a lower-rated position, his rate of pay will not be reduced."

In the instant case, Claimant was frequently assigned lower rated work. For some time, Carrier properly paid him his regular, higher, rate. Carrier then unilaterally began paying him at the lower rate for those hours spent doing lower rated work. This was a violation of the very clear language of Rule 31.

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 violated.

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AWARD

Claim sustained.

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By Order of Third Division

Attest:

  
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1986.