

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26404
Docket Number MW-26587

Robert W. McAllister, Referee

(Brotherhood of Maintenance of Way Employes
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

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

1. The Carrier violated the Agreement when it assigned junior Repairman H. W. Lewis to perform overtime service on December 31, 1984, instead of using Repairman J. J. Jones, who was senior, available and willing to perform that service (System Docket CR-875).

2. Claimant J. J. Jones shall be allowed eight (8) hours of pay at the repairman's time and one-half rate."

OPINION OF BOARD: This Board adopts the reasoning and findings set forth in Third Division Award 26403 and finds them applicable to the issues raised in this dispute concerning the viability of the March 9, 1977, Canton Shop Overtime Agreement.

The Carrier herein raises a procedural question asserting the Organization failed to claim a Rule violation and did not state how the Rule was violated. The Carrier's position is based upon the General Chairman's appeal dated July 22, 1984. The Board has reviewed that document and finds the General Chairman specifically explained that the Organization did not consider the March 9, 1977, Agreement to be in effect at Canton Shop and that that Agreement referred to Rule 4-E-2 which does not exist in the current Agreement. The General Chairman further explained the appropriate Rule in this matter is Rule 17. He then explained why, under Rule 17, the Claimant, as the senior employee, should have been called. Based on this analysis, we find no merit to the Carrier's procedural objection. We, therefore, reaffirm our adoption of the reasonings and findings of Third Division Award 26403.

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 Employes involved in this dispute are respectively Carrier and Employes 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

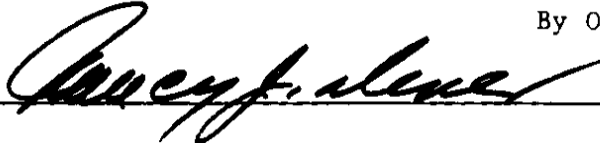
That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: _____


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1987.