

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26427  
Docket Number MW-25993

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(  
(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 Trackman W. L. Morgan to perform overtime service on August 22, 23 and 24, 1980 instead of assigning and using Trackman W. C. Walker, who was senior, available and willing to perform that service (System Docket CR-219).

2. Mr. W. C. Walker shall be allowed forty-five (45) hours of pay at the camp car attendant's time and one-half rate because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: The Claimant was senior to Trackman L. L. Morgan who was used to perform overtime service on August 22, 23, 24, 1980. Morgan was used to watch camp cars over the long weekend. Morgan was asked to perform the service because he was one of the last qualified Trackmen still at the site when it became known that the regular Camp Car Attendant could not perform the service. The Organization contends that since Claimant was senior to Morgan, he should have been asked to perform the overtime service. Carrier agrees with this position but asserts that Claimant had already left the camp cars for home when the need for a replacement attendant came up. Claimant contends that he was in the kitchen of the camp car waiting for his ride home and had not left the site.

The Board has reviewed the record of this case and must conclude that Carrier erred in not attempting to seek out the most senior qualified Camp Attendant available at the site when Mr. Morgan was assigned as Camp Attendant. The Carrier has, as a minimum in this instance, the obligation to seek the most senior qualified available employee to perform the overtime work. We find nothing in the record to demonstrate that Carrier officials made an effort to seek out the most senior man, nor do we find any information in the record to support Carrier's contention that Claimant had left the property and was headed home. We therefore shall sustain the Claim.

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

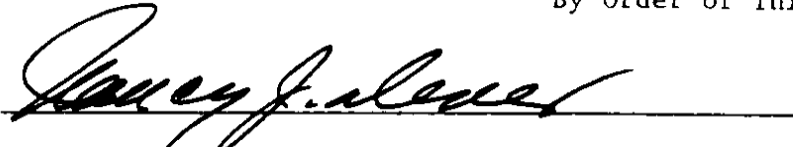
That the Agreement was violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 24th day of August 1987.