

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26438  
Docket Number MS-26436

Elliott H. Goldstein, Referee

PARTIES TO DISPUTE: (Ramon Lozano  
(  
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM:

"Claim ICG-2-84/VM-21-84 regarding my time claims for dates of April 1, 12, 13, 20, and 27, 1984."

OPINION OF BOARD: On April 1, 12, 13, 20 and 27, 1984, the Carrier utilized a Welder and Welder Helper to perform work on an overtime basis. Claimant, a Welder Foreman, was not called to direct this work. After the Claim was declined at each step on the property, Claimant individually instituted proceedings before this Board on May 23, 1985.

Claimant maintains that he is entitled to compensation because the Welders who performed the jobs in question were supervised by other supervisors, when the supervisory work should have been assigned to Claimant as Senior Welding Foreman.

After careful consideration of this matter, the Board must reject Claimant's contentions. This Board has consistently held that, unless otherwise specifically provided in the Agreement, Carrier has the sole and exclusive right to determine when and under what circumstances a foreman is assigned to supervise a group of employees. The burden of proof is on the Claimant to show that some Rule of the Agreement has been violated. The Claimant in the instant case has failed to sustain that burden. Accordingly, we must deny 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

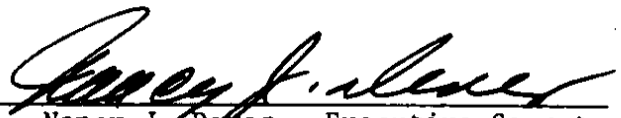
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dover - Executive Secretary

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