

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 27595
Docket No. MW-27109
88-3-86-3-165

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

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

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

(1) The Agreement was violated when Crane Operator D. A. Dixon was not used to perform overtime service on his assigned position on November 30 and December 1, 2, 3 and 4, 1984 (System Docket CR-1390).

(2) Crane Operator D. A. Dixon shall be allowed thirty-six and one-half (36½) hours of pay at his time and one-half rate."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant is a Burro Crane Operator. On November 30 and December 1-4, 1984, Burro crane work was assigned on overtime to an employee junior to the Claimant. The Claimant alleges such work should have been assigned to him under Rule 17, which reads as follows:

"RULE 17 - PREFERENCE FOR OVERTIME WORK

Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them during the course of their work week or day in the order of their seniority."

The Carrier contends, without contradiction, that the Claimant was not qualified to perform Burro crane work where the overtime work was performed by his failure to renew his annual qualification requirement or be qualified on the physical characteristics of the territory involved. Rule 17 refers to "qualified" employees, and the Carrier has demonstrated that the Claimant did not meet this requirement.

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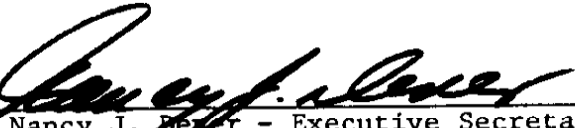
The Organization suggests, in its rebuttal, that the Claimant may not have been provided with the opportunity to become qualified on a timely basis. Absent further information, this is speculation. In any event, the Board may not find that the Carrier is required to utilize employees who, in fact, have not met qualification requirements at the time the work is available.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 27th day of October 1988.