

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

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 Assistant Foreman R. Green to perform overtime service on September 14 and 15, 1984, instead of using Assistant Foreman A. Vera to perform that service (System Docket CR-1305).

(2) Assistant Foreman A. Vera shall be allowed sixteen (16) hours of pay at his time and one-half rate because of the violation referred to in Part (1) hereof."

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.

The Claimant, A. Vera, is an Assistant Foreman assigned to the retirement and material pickup gang. Assistant Foreman R. Green is also assigned to that gang. On September 14 and 15, 1984, the Carrier used Assistant Foreman Green on overtime. Citing Rule 17, the Organization argues this Rule specifically states employees will be given preference for overtime work "... on work ordinarily and customarily performed by them." Herein, the Organization contends the Claimant was customarily assigned to supervise material pickup work performed by contractors. According to the Organization, Assistant Foreman Green was customarily assigned to the spike pulling operation and also performed timekeeping duties. Since the overtime work in question involved flag protection for the contractor, work neither performed prior thereto, seniority prevailed and Carrier correctly assigned the senior employee.

Form 1
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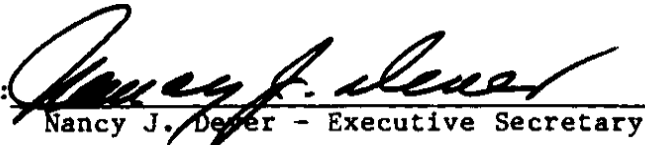
Award No. 27621
Docket No. MW-27011
88-3-86-3-45

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of November 1988.