

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Duluth, Missabe and Iron Range Railway Company

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

(1) The Carrier violated the Agreement when it assigned Tie Gang Machine Operators M. Welsh and S. Woods instead of Keenan Section Gang Machine Operator W. Murphy to perform overtime service on the Keenan Section territory on June 21 and 22, 1986 (System Files 48-86 and 64-86).

(2) As a consequence of the aforesaid violation, Mr. W. Murphy shall be allowed nineteen and one-half (19.5) 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 employe or employes involved in this dispute are respectively carrier and employes 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.

From the record before us, the following facts appear to be substantiated. Tie Gang 10606 was operating in the area of the Keenan Section Gang. On June 21 and 22, 1986, the rest days of the Keenan Section Gang, employees of Gang 10606 were employed to pick up used and replaced ties.

The claim before us is predicated upon Rule 20(a) and (b), reading as follows:

"RULE 20

Division of Overtime

(a) During the regular assigned workweek, an employee assigned to a particular job during the workday at a point where overtime is required continuous with his shift will be given all the overtime connected with that job.

(b) All other overtime will be given to the senior qualified available employee working in the classification at the headquarters point where the overtime is to be performed."

Rule 20(a) does not apply here because the work in dispute was not "required continuous with" the regular assigned shift of the employees of the Keenan Section Gang. The claim here concerns work that was performed on the assigned rest days of the gang.

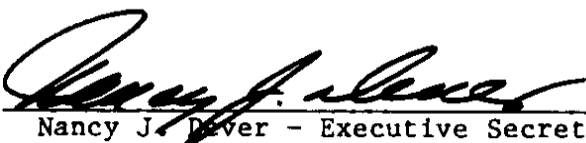
The Organization contends that many of the ties had been removed by the Keenan Section Gang, and, as such, only the Keenan Section Gang could pick up the remains of their regular work. While it is true that work on a section normally accrues to the gang assigned to its maintenance, it is also true that special purpose gangs do traverse many sections in the performance of their work. Here, it is not contested that the work was performed by Class C machine operators and Claimant was assigned to a Class B machine operator position. Given the nature of the work performed, the Board is unable to conclude that the Rule cited requires that a sustaining award be issued on this record.

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 25th day of September 1989.