

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
(National Railroad Passenger Corporation (Amtrak)
(Northeast Corridor)

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

(1) The Agreement was violated when the Carrier assigned other employees to perform overtime service instead and in the place of Repairman J. J. Gerding on May 21, 22, 23, 29, 30, 31, June 3, 4, 5, 6, 18, 19, July 1, 2, 3, 5, 7, 8, 9 and 10, 1984 (System Files NEC-BMWE-SD-1110, NEC-BMWE-SD-1111, NEC-BMWE-SD-1122).

(2) The claimant shall be allowed one hundred eighty-nine (189) hours of pay 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.

At the time of the incidents that gave rise to the three claims being considered in this case, Claimant was employed as a Repairman, headquartered at Bayview. On the twenty days between May 21 and July 10, 1984, Claimant contended that he should have been used on an overtime basis to repair equipment assigned to the High Speed Surfacing Gang. Carrier contended that Claimant was not improperly denied work that he should have received.

A review of the record and correspondence exchanged on the issue reveals that there is a dispute in the factual situation as developed on the property. When such irreconcilable differences occur, claims have traditionally been dismissed or denied by this Board. We see no basis on which to do otherwise in this instance.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 24th day of September 1991.