

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Chicago and Illinois Midland Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10451) that:

1. Carrier violated the Agreement when it failed to utilize Mr. J. A. Stephens, hereinafter referred to as Claimant, on the position of Dumper/Reclaimer Operator at its Havana Coal Transfer Plant, Havana, Illinois on the dates of May 6 and 7, 1988.
2. Carrier's action was in violation of the Agreement, expressly Supplement No. 10, General Provisions, Paragraph O contained therein.
3. Carrier shall now be required to compensate Claimant, for eight (8) hours pay at the Dumper/Reclaimer Operator rate for each date of May 6 and 7, 1988."

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 employee 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 facts in this case are undisputed. On the two claim dates, May 6 and 7, 1988, the Carrier's Coal Transfer Plant at Havana, Illinois, was not operating. The only Agreement-covered employee on duty during the afternoon shifts was a Gate Operator-Clerk. One of the Clerk's assigned duties was to patrol the grounds and to be especially watchful for fires in the coal storage pile. On these two days small, but persistent, fires, ignited by spontaneous combustion, burned in the coal pile. The Manager directed the Clerk to place a water hose on the boom of the stacker/reclaimer machine to control the fires. Several times during his tour of duty, the Clerk moved the stacker/reclaimer machine on its track a few feet so the water flowing from the hose was aimed at the flames. While the record is vague, the total amount of time the Clerk spent moving the crane on its track amounted to about five minutes.

The Organization later filed the instant claim alleging that the Carrier should have called the senior available employee because there was a temporary vacancy for a Stacker/Reclaimer Operator. The Organization represented that Claimant was qualified to operate the stacker/reclaimer even though he held a regular assignment as a Lubricator.

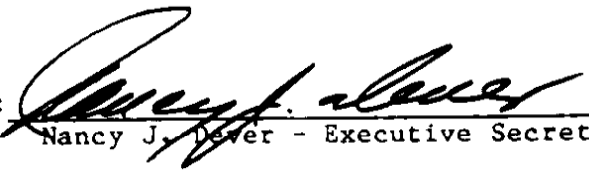
The stacker/reclaimer is a large, electrically powered machine, which moves on a track. The machine has a boom 60 feet high and 100 feet long. It is also affixed with a digging and/or dumping mechanism. The stacker/reclaimer is used to move coal to and from the storage pile.

Operating a machine like the stacker/reclaimer involves more than just activating the machine and moving the machine a few feet down a track. See Third Division Award 28799. Operating machinery means using it for its intended and ordinary purpose. In this case, the stacker/reclaimer was essentially being used as a handy receptacle for a water hose, which is clearly not the machine's usual function. In essence, the Clerk was not operating the machine, but he merely utilized the machine to move the water hose a very short distance to keep the coal fire under control. Therefore, the Organization did not meet its burden of proving that a temporary vacancy existed on a Stacker/Reclaimer Operator position on the two claim dates.

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 3rd day of April 1992.