

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29478  
Docket No. MW-29037  
93-3-89-3-466

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  
(  
(CSX Transportation, Inc. (formerly  
(The Chesapeake and Ohio Railway Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier improperly assigned Yard Rehabilitation Force 6GB5 to perform other duties with the Switch Undercutter force instead of assigning a switch undercutter support force beginning on July 18, 1988 [System File C-TC-4493/12(88-1002) COS]

(2) The Agreement was also violated when the Carrier failed to upgrade two (2) machine operators while the contract undercutter machine operators were performing machine operating work on the switch undercutter force beginning on July 18, 1988.

(3) As a consequence of the violation referred to in Part (1) hereof, Claimants B. C. Blair, R. R. Martin, C. C. Sammons, J. R. Blair and D. G. Adams shall each be allowed two (2) hours at their overtime rate of pay in addition to \$.20 per mile for 200 miles for each day that they were improperly required to travel to the improper assignment location. In addition, the Carrier shall abolish the force and bulletin it to reflect its proper work assignment as an undercutter support force.

(4) As a consequence of the violation referred to in Part (2) hereof, the Carrier shall assign the two (2) senior available machine operators to the switch undercutter for the period of the assignment of outside forces to operate the switch undercutter and they shall be paid at the Class 'A' machine operator's rate of pay for each and every day that the force works."

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.

The Claimants were members of "Yard Rehabilitation Force 6GB5" (as characterized by the Organization) or a "regional floating gang" (as described by the Carrier). In the course of their assignment, the Claimants were directed to work as "an undercutter support force", requiring travel of 200 miles a day. The Organization argues that this was in contradiction to the bulletin under which the Claimants and selected work of Force 6GB5, as well as contrary to alleged advice given to them.

In addition, the Organization protests the upgrading of two Laborers to Class "A" rate, because the undercutting contractor had provided two operators for the work. The Organization contends that furloughed Machine Operators should have been recalled for this purpose.

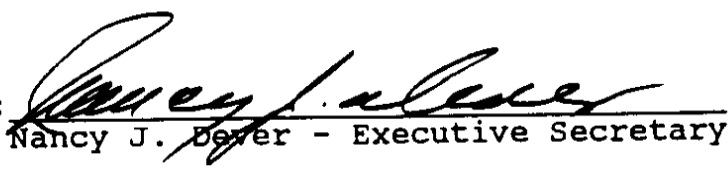
While the Organization makes reference to Rule 2(b), generally defining seniority rights, there is no showing of violation of any specific Rule in the Carrier's assignment of what it classified as a "floating" gang. The referenced bulletin establishing the gang was not offered to the Board.

Failing to provide proof of Rule violation and in the face of accusations without supporting substance, the Board necessarily finds the Claim without substance.

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 21st day of January 1993.