

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29992
Docket No. MW-29942
94-3-91-3-327

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Monongahela Railway Company

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

- (1) The Agreement was violated when the Carrier failed to timely advertise the field welder position vacated on the field welding gang on December 15, 1989.
- (2) The Agreement was further violated when Director - Labor Relations D. E. Gratz failed to timely disallow the claim appealed to him by District Chairman Sean Ferris under date of April 2, 1990.
- (3) As a consequence of the violations referred to in either Part (1) and/or Part (2) hereof, Claimant J. R. Franks shall be paid eight (8) hours per day, all overtime and shall be made whole."

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 underlying facts in this matter are not in dispute. On December 5, 1989, a vacancy occurred in a field welder gang which the Carrier admittedly failed to advertise in accord with the provisions of the Agreement. The gang was abolished on February 12, 1990.

During the handling on the property, the Carrier stated on August 30, 1990, that the welding gang performed service short-handed for nine days during this period of time. Subject to verification through an examination of the Carrier's records, we conclude that the Claimant is entitled to compensation for the appropriate number of days the welding gang worked shorthanded between December 5, 1989 and February 12, 1990.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 21st day of January 1994.