

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30530
Docket No. MW-30111
94-3-91-3-359

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
(
(National Railroad Passenger Corporation
((Amtrak)

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

- (1) The Agreement was violated when the Carrier assigned unqualified employee P. Avalos instead of Mr. J. Pickett to perform assistant track foreman service on March 5 and 6, 1990 (System File BMWE-TC-135 NRP).
- (2) Mr. J. Pickett shall be paid the difference between trackman and assistant foreman for March 5 and 6, 1990."

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 Claimant began service as a Trackman in May and was qualified on November 17, 1989 for service as a Foreman. According to the Carrier, the Claimant had not worked as Foreman up to the time the claim herein was initiated. The claim contended that, on March 5-6, 1990, an employee was assigned to work as Assistant Foreman. The other employee, senior to the Claimant, had previously been disqualified as a Foreman, according to the Organization.

The parties exchanged views as to the qualifications of the Claimant and that of the other employee whom the Organization contended had performed the work. During the claim handling procedure, the Carrier advised that a check of the records showed that the other employee did not work as a Foreman or Assistant Foreman on the dates in question and that he was paid in the usual manner as a Trackman. This information was not contested by the Organization. On this basis, there is no support for a claim as to the dates cited by the Organization.

During the claim handling procedure, the Organization made reference to a third date, March 19, 1989, on which a different employee senior to the Claimant worked as Assistant Foreman. Since the claim before the Board did not include this date, the Board has no reason to make judgment thereon.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 9th day of November 1994.