

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30718
Docket No. MW-30600
95-3-92-3-368

The Third Division consisted of the regular members and in addition Referee W. Gary Vause when award was rendered.

(Brotherhood of Maintenance of Way Employes

PARTIES TO DISPUTE: (CSX Transportation, Inc. (former Louisville
(and Nashville Railroad Company)

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

- (1) The Carrier violated the Agreement on January 26 and 27, 1991 when it assigned Track Repairman C.L. Anderson to operate a dump truck hauling crossties at Radnor Yard, Nashville, Tennessee instead of assigning the regular employe, Mr. R.E. Prowell, to the rest day service [System File 10(26)(91)/12(91-853) LNR].
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R.E. Prowell shall be paid eight (8) hours' pay at the dump truck operator's time and one-half rate of pay for each of the dates the track repairman performed the overtime work."

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.

This claim is a duplicate of that presented by the Carrier in Docket MW-30342. The merits of this matter have been given final and binding adjudication in Third Division Award 30715.

In Third Division Award 28427, the Board held:

"We do not consider it the intent of the Railway Labor Act, which has as one of its primary purposes, the prompt and orderly settlement of disputes growing out of grievances or out of the interpretation or application of Agreements covering rates of pay or working conditions, that the National Railroad Adjustment Board repeatedly adjudicate the same dispute involving the same Claimant and arising out of the same occurrence, simply because the Claim may be submitted to the Board worded slightly different."

See, also, Fourth Division Award 4590.

AWARD

Claim dismissed.

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 31st day of January 1995.