

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31365  
Docket No. MW-31982  
96-3-94-3-338

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Consolidated Rail Corporation

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

1. The Agreement was violated when the Carrier assigned Vehicle Operator T. A. Novak to perform overtime service performing trackman/casual driver duties at South Fork, Pennsylvania on September 20, 1992, instead of assigning Trackman/Casual Driver R. F. James (System Docket MW-2937).
2. As a consequence of the violation referred to in Part (1), Claimant R. F. James shall be allowed ten (10) hours' pay at his time and one-half rate with credits and benefits associated thereto."

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.

At the time of this claim, Claimant was working as a Trackman-Operator in Rail Gang 203. Mr. T. A. Novak, a junior employee, was assigned as a Vehicle Operator. On September 20, 1992, Carrier worked Novak for ten hours at the overtime rate of pay. Claimant contends that he should have been used because he was senior to Novak. Carrier argues that under the terms of Rule 17, Novak had preference for the overtime work because it was duties that he ordinarily and customarily performed during the course of his work week that were required to be done on overtime.

The facts in this record support Carrier in this matter. The Organization has not established that the Agreement was violated.

AWARD

Claim denied.

ORDER

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

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of February 1996.