

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 32293
Docket No. MW-31095
97-3-93-3-90

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen 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 junior employee G. F. Griebel, instead of calling and assigning senior employee G. D. Faulkner, to perform overtime service on October 27, 1991 (System Docket MW-2329).
- (2) As a consequence of the violation referred to in Part (1) above, Claimant G. D. Faulkner shall be allowed compensation, ‘...for time earned by Mr. Griebel on October 27, 1991. This being at the overtime rate. The claimant should also be credited for another 1.85 days toward vacation and all other benefits.’”

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 were given due notice of hearing thereon.

Claimant held the position of Trackman on the date of claim. At the time the claim arose, the gang to which he was regularly assigned was working a tie spiking project. Claimant was assigned to feed spikes into the gager spiking machine, the first or lead machine of several spiking machines, which are utilized in tandem by the tie gang. The gager machine ensures that track is laid down properly with the correct spacing between the rails, tacking them in place on intermittent cross ties. A second spiker machine follows and drives in the rest of the spikes to the remaining ties to hold the rails in place permanently. A final spiking machine, the "quality control" spiker, replaces any bent or improperly installed spikes driven by the lead machine. Just as Claimant was usually assigned to the feed spikes to the lead or gager spiker, during the regular work week; Machine Operator G. F. Griebel was usually assigned to operate the final or quality control spiking machine, during the regular work week.

On November 27, 1991, his rest day, Class 2 machine Operator G. F. Griebel was called to work to operate a rear spiker machine for a tie gang. On November 5, 1991, Carrier received correspondence from the Organization on behalf of G. D. Faulkner (Claimant), who is senior to Mr. Griebel, alleging a violation of Agreement Rules 1, 4, 11, 16 and 17. The Organization asserted that since Claimant was senior to Mr. Griebel, he should have been called for the rest day overtime work on November 27, 1991.

Carrier denied the claim maintaining that, since the work was "ordinarily and customarily" performed by Mr. Griebel during his work week, he was entitled to the overtime. In an appeal letter to the Manager-Labor Relations, the Organization reasserted that Claimant was entitled to the overtime, however, the claim was confined to Rules 16 and 17 only.

"Rule 17-PREFERENCE FOR OVERTIME

Employees will, if qualified and available, be given preference for overtime work, including calls, on work ordinarily and customarily performed by them during the course of their work week or day in the order of their seniority."

There is no dispute that Claimant ordinarily and customarily performed the duties of Trackman on the date at issue, and that his regular work week job involved

feeding spikes into a gager spiking machine. For his part, Mr. Griebel operated the "final" spiking machine, with responsibility for replacing any bent or improperly installed spikes which had been driven by the lead and intermediate machines. Under the plain and unambiguous language of Rule 17, supra, Carrier did not violate Claimant's seniority rights when they gave preference for the November 27, 1991 overtime on the final or quality control spiker to the junior employee who "ordinarily and customarily performed the work" of operating that particular machine during the course of his workweek or day.

Based on the foregoing, we find that that Claimant was not improperly bypassed for the overtime work which Mr. Griebel was called to perform on November 27, 1991. Therefore, this claim must be denied.

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 13th day of November 1997.