

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32789
Docket No. MW-30727
98-3-92-3-525**

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

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employes
(MidLouisiana Rail Corporation

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned junior Track Foreman C. Anderson to perform overtime service at Hodge Yard on March 30 and 31, 1991, at Mile Post 173 on April 5, 1991 and between Hodge and Gibsland, Louisiana on May 4, 1991, instead of calling and assigning Track Foreman C. R. Moffett (System File MW-91-2-MS/91-021-MW).**
- (2) As a consequence of the violations referred to in Part (1) above, Claimant C. R. Moffett shall be allowed twenty-eight (28) hours' pay at his time and one-half overtime rate of pay."**

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 holds seniority as a Track Foreman. At the time this dispute arose, he was regularly assigned and working as a Track Foreman with headquarters at Hodge, Louisiana. It is undisputed on this record that he is senior to Track Foreman Anderson who, at the time in question, was also assigned with headquarters at Hodge, Louisiana.

The contract language in this case is clear regarding assignment of overtime. In the case before the Board, however, it is apparent that Claimant had repeatedly made himself unavailable for overtime. In particular, Claimant stated that, since he spent his weekends at his camp, Carrier should not bother calling him for overtime beyond Friday's normal working hours. Since the contract provides that the senior available employee shall be called for overtime, and Claimant made it clear to Carrier that he should not be considered "available" for overtime work on those dates and times at issue here, we do not find that Carrier violated the Agreement. Rather, it correctly proceeded to call the senior available employee for the overtime work needed.

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 23rd day of September 1998.