

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 33165
Docket No. MW-32268
99-3-95-3-82**

The Third Division consisted of the regular members and in addition Referee Robert Perkovich when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Leechburg Subdivision employes W. Danjo and K. Thompson to perform overtime service on July 28, 1993, instead of calling and assigning Duquesne Subdivision employes D. Pelino and C. Sleva (System Docket MW-3234).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimants Pelino and Sleva shall be compensated for eight (8) hours at their respective time and one-half rates of pay and three (3) hours at their respective double time rates 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.

On July 28, 1993 Claimant Pelino held no regular assignment and instead worked temporary assignments while awaiting a regular assignment. Claimant Sleva held a regular assignment as a Welder Helper. Both worked on the Duquesne subdivision of the Pittsburgh Seniority district. Employees Thompson and Danjo, both of whom had greater seniority than the Claimants, held positions as a Electric Welder and Welder Helper respectively and were employed as such in a welding gang. On the day in question while they were employed in those positions, the work they performed was not completed at the end of their workday and each continued to work past the end of the workday.

It is clear from the foregoing that employees Thompson and Danjo worked overtime on the day in question and in doing so performed work that they not only customarily and ordinarily performed, but that they customarily and ordinarily performed on the day in question and continuously from a point in time during their regular workday until the end of the task after the end of their regular workday. Thus, under the literal language of Rule 17 the Claimants were not entitled to the work in question because of the fact that the other employees, who were more senior, were already performing the work.

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 25th day of March 1999.