

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 33914  
Docket No. MS-33667  
00-3-97-3-122**

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

**(Willie Miller**  
**PARTIES TO DISPUTE: (**  
**(Consolidated Rail Corporation**

**STATEMENT OF CLAIM:**

“Consolidated Rail Corporation violated the Agreement when it failed to properly inform foreman W. Miller that his position would be working on (Sunday) September 17, 1996. Claimant was not so notified prior to the end of his tour of duty on Thursday September 14, 1995 account of supervisor not having authorization for the overtime in question. This prompted a violation of Rules 4 and 17, denying Mr. Miller (10) hours of overtime at his applicable time and one-half rate.”

**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.

The record shows that prior to Sunday, September 17, 1995 the Claimant was offered, and he accepted, an overtime assignment for that day. However, he failed to report and the Carrier assigned the overtime to another employee.

The Claimant does not contend that the overtime assignment was made to him and that he accepted, however he claims that the assignment was provisional and therefore once it became a reality and was given to another, more junior employee, the Carrier violated Rule 17 of the Agreement.

The only support for the Claimant's argument is his own written statement to that effect. However, the Carrier denies his assertion. Therefore, there is uncertainty as to the facts of the matter which lead to irreconcilable differences between the parties' positions. Accordingly, the Board is without sufficient factual information to uphold this claim.

**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 24th day of January, 2000.**