

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34203
Docket No. CL-35194
00-3-99-3-20**

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(Springfield Terminal Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Organization (GL-12245) that:

- (a) I, Arthur Ferland, claim eight (8) hours pay on Position MC-11 for Friday, January 9, 1998.
- (b) The Crew Office called Thursday, January 8, 1998 to cancel MC-11 due to the ice storm. E. R. Binette was called in Friday, January 9, 1998 to do the work of my assignment on MC-11.”

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.

At the relevant time, the Claimant was a Transportation Service Representative holding Position MC-11 at Waterville, Maine. On January 8, 1998, MC-11 was canceled due to an ice storm. On January 9, 1998, E. R. Binette was called in to work. According

to the Carrier, Binette worked assignment MC-10 when the incumbent was unable to work due to the ice storm. The Claimant asserts that Binette worked assignment MC-11 ("E. R. Binette was called in Friday, January 9, 1998 to the work of my assignment on MC 11").

There is an obvious factual dispute. The Organization claims that Binette worked the Claimant's assignment MC-11 while the Carrier asserts that Binette worked assignment MC-10. The Organization counters in argument that it is irrelevant whether Binette worked MC-10 or MC-11 and asserts that the Claimant should have been called. But the burden is on the Organization to demonstrate sufficient facts to demonstrate a violation of the Agreement. Based on the sparse facts developed in this record, we are unable to ascertain whether Binette worked MC-10 or MC-11 and, if he worked MC-10, the consequences of his performing the work of that position as opposed to working the Claimant's MC-11 position. Without more, we are unable to find that the Organization has met its burden. This claim must fail for lack of factual support.

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 August, 2000.