

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 43045
Docket No. MW-43903
18-3-NRAB-00003-160706**

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

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Terminal Railroad Association of St. Louis

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to assign Mr. T. Knopf to perform overtime service cleaning up material from a job in Bowl Yard on July 4, 2015 and instead assigned a junior employe (Carrier’s File T081015-01 TRR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant T. Knopf shall be paid for seven (7) hours’ overtime at the truck driver’s 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.

On July 3, 2015, Track Manager W. Bailey requested volunteers to work overtime on July 4, 2015 (a Saturday) performing clean-up duties. Two Machine Operators and a Foreman accepted the overtime offer and loaded scrap rail at the Madison hump.

Without instruction for Manager Bailey to do so – and without his knowledge – the Machine Operators as part of their clean-up duties decided to move a tractor trailer to better perform their duties on July 4, 2015. As a result, no Truck Driver was called out – specifically the Claimant (who had greater Truck Driver seniority than both Machine Operators).

This claim filed on behalf of the Claimant with the Organization's contention that because a truck was utilized, the Claimant should have been called out to perform the Truck Driver duties and should be compensated for the Carrier's failure to do so.

The use of the tractor trailer to better perform their clean-up duties on July 4, 2015 was not part of the overtime assignment given by Manager Bailey and was done without Manager Bailey's knowledge. The Machine Operators moved the tractor trailer on their own volition. The Carrier cannot be held responsible for the Machine Operators' decision to move the tractor trailer. Had Manager Bailey instructed the Machine Operators to use the tractor trailer to perform their overtime duties, the claim would have merit. However, that was not the case.

The claim shall therefore be denied.

AWARD

Claim denied.

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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 2nd day of May 2018.