

Award No. 23
Case No. 23

Public Law Board 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

(a) The Carrier violated the Rules Agreement effective April 15, 1944, as modified September 1, 1949 (particularly, Rule 1-Scope, Rule 2-Seniority, 2-d-1-Seniority Rosters and others), January 22, 1974 and April 10, 1975 when Roadway Mechanic Grover Karper used Conrail truck to haul materials and supplies to various locations in the Atlantic Region on June 15, 16, 17, 22, 23, 24, 27 and 28, 1977, and when Lead Mechanic Joseph Deutsch used Conrail truck for the same purpose on June 30, 1977 to the exclusion of Trackman-Truck Driver Moulton Frantz.

(b) As the result of such violations, Claimant Frantz be compensated at the applicable rate for eight (8) hours for each of the days claimed.

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FINDINGS:

On the claim dates, Lead Mechanic Deutsch and Roadway Mechanic Karper, who were assigned to the Easton M & W Equipment Shop, delivered material to outlying locations for use by roadway mechanics to repair track maintenance equipment. In Petitioner's view, track maintenance man should have been assigned to deliver the equipment.

Nothing in this record shows that, by any rule or established practice, the duties in question belong exclusively to trackmen and that lead and roadway mechanics are barred from performing them. Both parties allege that the past practice on this property supports their respective positions. Neither has presented supporting proof. In this posture of the record, and since the burden of proof rests with Petitioner, the claim must be denied.

AWARD:

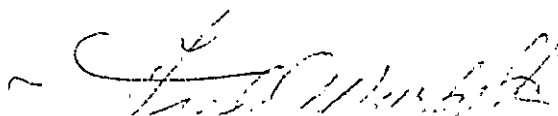
Claim denied.

Adopted at Philadelphia, Pa., January 11, 1980.
1979.

Harold M. Weston, Chairman



Carrier Member



Employee Member