

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 23

Case No. 24

STATEMENT OF CLAIM

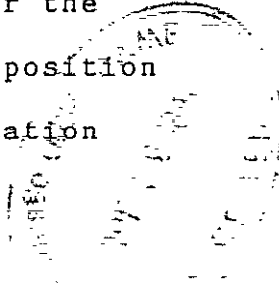
1. The Carrier violated the terms of the current Agreement when it failed to call and assign overtime work to Section Foreman Roger L. Ridenour and instead assigned such overtime to Junior Trackman Mr. C. E. Criddle..

2. The Carrier shall now be required to compensate Claimant at his overtime rate of pay, in the amount equal to that worked by Junior employe Criddle.

F I N D I N G S

Except as to dates of occurrence, this claim is virtually identical to that reviewed in Award No. 22, and the Board reaches the same conclusion.

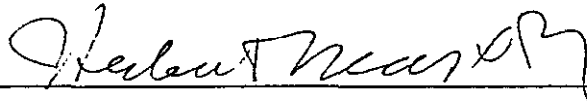
In this instance, the Organization raises the question as to the qualifications of the selected employee for the supervisory work performed. Since the work and the position are of an exempt nature, the Board finds the Organization without standing to contest this point.



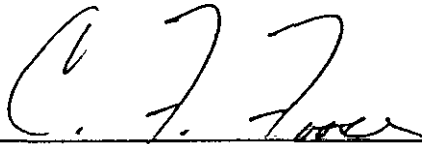
In view of the Board's denial of the claim on its merits, it is not necessary for the Board to review the Carrier's allegation as to time limits being exceeded in the claim filing.

A W A R D

Claim denied.



HERBERT L. MARX, JR., Chairman and Neutral Member



C. F. FOOSE, Employee Member



R. J. SCHNEIDER, Carrier Member

NEW YORK, NY

DATED: