

PUBLIC LAW BOARD NO. 6676

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
TO)
DISPUTE) NORFOLK AND SOUTHERN RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- 1. The Agreement was violated when the Carrier failed and refused to allow Roadway Machine Repairmen J. A. Havens and B. O. Brown a \$1,000 lump sum payment when it required them to work on two or more managerial territories during the week of July 16, 2001.**
- 2. As a consequence of the violation referred to in Part (1) above, Machine Repairmen J. A. Havens and B. O. Brown shall now be allowed the \$1,000 lump sum payment. (Carrier File: MW-CHAR-02-03(ROKE))**

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The contractual agreement provisions, and positions of the parties relative to same, that give rise to the dispute here at issue are as already reviewed in Case No. 1, Award No. 1, of this Board. That is, interpretation and application of the Seniority Realignment Agreement of February 21, 2000 and the September 26, 1996 National Agreement involving non-DPG gangs that work between two or more managerial division territories being entitled to a lump sum payment under certain prescribed conditions.

In study of argument advanced in the instant case, the Board finds no probative support for the basic contention that Claimants, who were assigned as Roadway Repairmen on the Virginia Managerial Division, had, in fact, worked on the Pocahontas Managerial Division during the week of July 16, 2001, as claimed.

In written denial of the claim on the property the Carrier noted that Claimants worked their normal assignment with Gang T&S 20, which it submitted was working between Walton and East Bluefield on the Virginia Managerial Division during the week of July 16, 2001. Moreover, in its letter of denial, the Carrier provided copy of Claimants' payroll records for the week of July 16, 2001 in support of its position that Claimants had worked only on the Virginia Managerial Division repairing machinery for the production gang during the claimed time period.

The position of the Carrier as to where Claimants were working having gone undisputed, the Board has no alternative but to hold that the contractual provisions at issue have no application to the dispute. The claim will, therefore, be denied.

AWARD:


Claim denied.



Robert E. Peterson
Chair & Neutral Member



Dennis L. Kerby
Carrier Member



Donald D. Bartholomay
Organization Member

Norfolk, VA
October 20, 2004