

SPECIAL BOARD OF ADJUSTMENT 1016

Case No. 203

Award No. 203

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES

-and-

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1) The Agreement was violated when the Carrier assigned I&R Foreman R. Schlegel to pilot a Pandrol Jackson J-3 Rail Grinder while performing rail grinding work on the Chicago Line, Tracks 1 and 2, between Mile Posts 356 and 437 and Mile Posts 0.0 and 8.2 on November 1 through 16, 1995.

2) As a consequence of the violation referred to in Part (1) above, Mr. F. Root shall be allowed thirty-five (35) hours' pay at the Welder Foremen's time and one-half rate.

FINDINGS:

This Board, upon the whole record and all the evidence, finds as follows:

That the parties were given due notice of the hearing;

That the Carrier and Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act as approved June 21, 1934;

That this Board has jurisdiction over the dispute involved herein.

Between November 1 and November 16, 1995, a Pandrol Jackson J-3 Rail Grinder was assigned to the Buffalo Sub-Division to assist with maintenance work on switches and turnouts. Conrail assigned an I&R Foreman to pilot this equipment on the Buffalo Sub-Division. His regular tour of duty was from 7:00 a.m. to 3:30 p.m. The I&R Foreman also worked approximately 35 hours of overtime piloting the Rail Grinder.

On December 19, 1995, the Organization filed a claim on behalf of Welder Foreman Root for the overtime earned by the I&R Foreman while piloting the Pandrol Jackson J-3 Rail Grinder. It is the Organization's contention that piloting this rail grinder has consistently been assigned to either Welders or Welder Foremen since 1986.

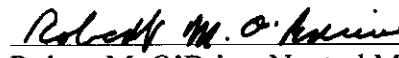
The Carrier denied the claim asserting that piloting duties are not exclusive to any one craft on this property. Also, the I&R Foreman did not perform any welding duties nor did he supervise welding forces, according to the Carrier. Rather, Welders were available to perform welding duties at the locations where the rail grinder was working.

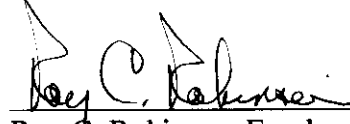
The parties' Scope Rule does not exclusively reserve work to Maintenance of Way employees. Moreover, it does not even reference the work of piloting on-track equipment. Thus, to prevail in this case, the Organization must prove that Welders or Welder Foremen have exclusively piloted the Pandrol Jackson J-3 Rail Grinder when it has been used on Conrail property. It has not sustained that burden, in this Board's opinion.

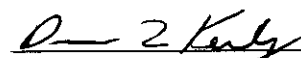
The Carrier has demonstrated that other classifications of employees, such as Engineers and Trainmen, have been assigned to pilot on-track equipment on Conrail property. Supervisory employees have also been used to pilot equipment on the property. Therefore, contrary to the Organization's contention, Welders and Welder Foremen have not exclusively piloted rail grinding equipment on Conrail. Accordingly, the Carrier had the prerogative to assign the work of piloting the Pandrol Jackson J-3 Rail Grinder to an I&R Foreman.

Inasmuch as it was permissible for Conrail to assign the I&R Foreman to pilot the rail grinder during his normal work week or work day he was entitled to preference for overtime work on this assignment pursuant to Rule 17 of the Agreement. The Claimant did not have a preference to this overtime work and his claim is denied as a result.

AWARD: Claim denied.


Robert M. O'Brien, Neutral Member


Roy C. Robinson, Employee Member


Dennis L. Kerby, Carrier Member

Dated: 4/30/02