

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 6

Case No. 6

Referee Fred Blackwell

Carrier Member: R. O'Neill

Labor Member: S. V. Powers

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it failed and refused to allow Messrs. C. L. Clutter, R. L. Allen, Jr., R. L. Elmer, D. J. Pratt, J. J. Donley, G. W. Cales, K. Snyder, R. Johnson, J. Mosser, K. N. Mitchell, M. A. Larkin, S. Powers, B. A. Howell, W. E. Stephens, T. E. Ziegelmeier, R. L. Titus, V. L. Fierce and J. L. Tucker pay at the welder helper's rate for the work they performed beginning July 16, 1984 (System Docket CR-1448).

(2) The claimants shall each be allowed the difference between what they should have received at the welder helper's rate and what they were paid at the trackman's rate for each work day beginning July 16, 1984 and continuing until the matter is resolved.

FINDINGS:

Upon the whole record and all the evidence, and after hearing on December 5, 1988, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

The herein claims are from Claimant Trackmen who allege

that beginning on July 16, 1984, they performed Welder Helper work while assigned to Trackmen positions in three (3) man Welding Gangs and that in consequence, they are entitled to be compensated for the difference between the rate of pay of the Welder Helper and the Trackman's rate.<sup>1</sup>

The Board notes that since a Welder Helper was assigned to each of the three man Welding Gangs during the claim period, it is presumed that the Helper performed Helper work all or at least most of the time in the claim period. Therefore, while the Board recognizes that the Claimant Trackmen probably performed some Welder Helper work on occasion, the Board has no basis for presuming that the Claimants performed Welder Helper work for a full shift on a daily basis, as they allege, when a Welder Helper was assigned full time to the crew. The Claimants should have provided some meaningful detail regarding specific dates on which they performed welder work; however the information of record provided by the Claimants to support their allegation of performing Welder Helper work every day on a full time basis, is generalized and non-specific and accordingly is found unpersuasive. In sum, the information of record is insufficient and inadequate to permit a favorable finding on the claims.

In view of the foregoing, and based on the record as a

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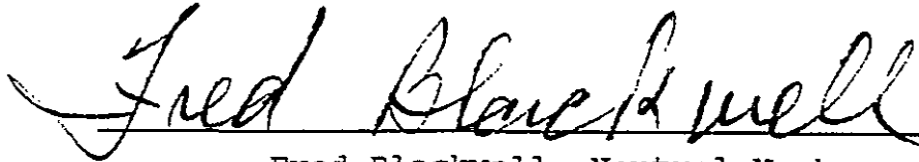
<sup>1</sup> The issues and facts in this case, No. 6, and Case No. 7, are generally similar and consequently, the submissions in both cases (6 and 7) have been studied and assessed in making the herein findings.

whole, the claims will be denied.

AWARD

Claims denied.

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016



Fred Blackwell, Neutral Member



S. V. Powers, Labor Member



R. O'Neill, Carrier Member

Executed on December 5, 1989

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