

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees	}	Case No. 50
and		Award No. 50
St. Louis Southwestern Railway Company		

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by assigning the Machine Operator of Ballast Tamper TMX No. 2, namely Ralph Mosqueda, to the starting time of 12:00 noon on April 18, 1960 and continuing thereafter.

2. The Carrier shall now compensate claimant Machine Operator Ralph Mosqueda at the time and one-half rate of pay of his position for the hours of service rendered by him between 12:00 noon and 3:00 p.m., and shall further compensate him for eight hours at his straight-time rate beginning at 3:00 p.m., less compensation already paid for such service beginning with the first work day of this new assignment of April 18, 1960, and continuing until this violation of the Agreement is ceased.

FINDINGS:

Upon the whole record and all the evidence, after hearing, the Board finds that the parties herein are carrier and employee 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.

For the reasons set forth in the Findings in Case No. 49 resulting in Award No. 49 this claim is denied.

AWARD: Claim denied.

(Signed) Thomas C. Begley
Thomas C. Begley, Chairman

(Signed) A. J. Cunningham (Dissenting)
A. J. Cunningham, Employee Member

(Signed) M. L. Erwin
M. L. Erwin, Carrier Member

Dated at Tyler, Texas
December 14, 1964

(Concurring opinion attached)

CONCURRING OPINION OF CARRIER MEMBER
AWARDS 49, 50, 51, 52, 53, 54, 55.

I concur in the decision that the restrictions relating to single shift operations did not apply under the conditions existing in these cases and that the claims should be denied, but it is my understanding the limitations in the rule apply only to single shift operations and that the carrier is not restricted as to starting time when two or more shifts are established, as in these cases.

(Signed) M. L. Erwin
M. L. Erwin, Carrier Member