



Award No. 16608
Docket No. MW-17190

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when, on February 14 and 25, 1966, it used Maintenance Gang Foreman T. D. Young and six (6) sectionmen assigned to Maintenance Gang No. 20, instead of Section Foreman H. L. Mansel and Sectionmen W. A. Pair, E. M. Atchley, E. L. Jones and A. L. Henderson, to perform track maintenance work on the territory assigned to Section No. 660. (System File 6-D-163/L-126-929)

(2) Because of the violation referred to in Part (1) of this claim

(a) Section Foreman H. L. Mansel and Sectionmen W. A. Pair, E. L. Jones and A. L. Henderson each be allowed 16 hours' pay at their respective straight time rate.

(b) Sectionman E. M. Atchley be allowed eight (8) hours' pay at his straight time rate.

EMPLOYEES' STATEMENT OF FACTS: On February 14 and 25, 1966, the Carrier required Maintenance Gang Foreman T. D. Young and six (6) trackmen assigned to Maintenance Gang No. 20, Amarillo, Texas, all of whom held seniority on **Seniority Territory No. 29**, to perform track maintenance work on the territory assigned to Section No. 660, **Seniority Territory No. 36**. Said work consisted of unloading ties with a work train between Conway and Groom, Texas, on February 14, 1966, and surfacing an elevator track at Lark, Texas, on February 25, 1966. Foreman Young and the aforesaid six (6) trackmen each worked a total of sixteen (16) hours in performing this work.

The claimants are regularly assigned members of the gang assigned to Section No. 660, Seniority Territory No. 36. They were available and fully qualified to perform all of the work on their section territory that was performed by members of Maintenance Gang No. 20. (Claimant E. M. Atchley was not available on 2/25/66.)

However, Carrier will refer to various portions of this correspondence, as necessary, and will reproduce pertinent portions of same when appropriate. Carrier will also take exception in its rebuttal statement to any errors or omissions in the Organization's reproduction of such correspondence.

6. The grievance procedures followed and progression of the instant dispute were timely and in accordance with the applicable rules in effect on this property and the Railway Labor Act, as amended.

OPINION OF BOARD: Claimants are members of Section 660 and each hold seniority rights thereon. On two date Carrier assigned Maintenance Gang No. 20, of another seniority territory, to perform work on Claimants' Territory. The issue is whether Carrier violated the Agreement by this assignment of men with seniority in one territory to perform work in the territory of another gang.

The Division in Award 16430 (Friedman) has previously considered and disposed of a dispute involving the same parties, the same rules and similar facts presenting the same issue as is now before us.

The issues involved in this case were determined in Award 16430 favorable to the contentions of the Employes, We therefore sustain this claim as presented.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of September 1968.