

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **26374**  
Docket Number MW-25952

Eckehard Muessig, Referee

PARTIES TO DISPUTE: ( (Brotherhood of Maintenance of Way Employes  
(Southern Pacific Transportation Company (Eastern Lines)

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

1. The Carrier violated the Agreement when it assigned and/or permitted Regional Engineer M. E. **McGinley**, Regional Maintenance of Way Manager L. V. Hoehne and Safety Supervisor General Foreman M. N. Prince to perform the work of a foreman on October 27, 28, 29 and 30, 1983 (System File **MW-83-129/406-7-A**).

2. Extra Gang Foreman **H. D.** Brown shall be allowed thirty-six (**36**) hours of pay at his time and one-half rate because of the violation referred to in Part (1) hereof."

OPINION OF BOARD: The events leading to this Claim occurred on October 27, 28, 29 and 30, 1983. On these dates, two laborers, assigned to the same gang as the Claimant, were utilized to perform work on the Carrier's kitchen trailer. The Organization essentially contends that the Claimant should have been assigned to supervise the two laborers because they were part of his gang.

After a thorough review of **the** record, we find no support for the Claim either in the parties' Agreement or on the basis of the parties' past practices. It is well established that the Carrier has a right to utilize its forces as needed, absent contractual constraints. We find no constraints under the circumstances of this Claim and it is therefore denied.

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

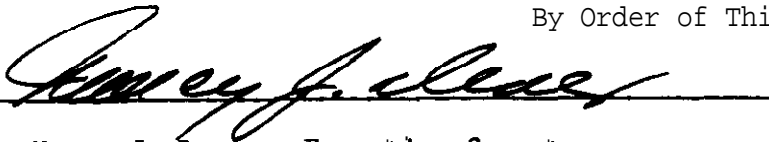
That the Agreement **was** not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", is written over a solid horizontal line.

**Nancy J. Dever** - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1987.