

The Third Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union  
(Chicago and Illinois Midland Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Organization (GL-10452) that:

1. Carrier violated the Agreement when it used a junior employe to Mr. J. R. Onion, namely J. C. Byrd, Jr., at the overtime rate of pay on the date of May 16, 1988, at the Havana Coal Transfer Plant, Havana, Illinois.
2. Carrier's action in the instant case violated the TCU Agreement, Supplement No. 10 contained therein.
3. Carrier shall now be required to compensate senior employe, Mr. J. R. Onion, hereinafter referred to as Claimant, for eight (8) hours pay at the overtime rate of pay of Laborer for the date of May 16, 1988."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

At 7:23 A.M. on May 16, 1988, the Carrier placed a telephone call to Claimant's residence to ascertain if he wished to perform overtime service on a Laborer's position at the Carrier's Havana Coal Transfer Plant in Havana, Illinois. According to the Carrier's call sheet, Claimant's spouse answered the telephone and informed the Carrier that Claimant was not at home. The Carrier proceeded down the seniority list and eventually contacted an employee junior to Claimant who worked an overtime shift on May 16, 1988.

Claimant had completed his regularly assigned tour of duty as a Gate Operator-Clerk at 7:00 A.M. on May 16, 1988. Claimant was presumably on his way home from work when Claimant's spouse received the Carrier's telephone call.

The Organization initiated a claim alleging that the Carrier should have again called Claimant's residence about five minutes later and before it called a junior employee. However, there is not any evidence that Claimant would have completed his commute home by 7:28 A.M. Claimant's spouse informed the Carrier that Claimant was not at home. Her response was duly noted on the call sheet, a record kept in the normal course of the Carrier's business. Thus, the Carrier was not required to wait five minutes and make a second call to Claimant's residence before contacting a junior employee, especially since actual telephone contact was effected with a person at Claimant's home. Thus, this was not a situation where the Carrier may have dialed the wrong telephone number.


Finally, the Organization has not cited any provision in Supplement 10, the March 8, 1979 Understanding, which was violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of April 1992.