

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 29850
Docket No. MW-30118
93-3-91-3-548

The Third Division consisted of the regular members and in addition Referee Hugh G. Duffy when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
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(Consolidated Rail Corporation

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

- (1) The Agreement was violated, beginning March 26, 1990, when the Carrier advertised and awarded through bulletin the position of trackman operator - air compressor instead of advertising and awarding through bulletin the position as Class 3 Machine Operator (System Docket MW-1368).
- (2) As a consequence of the violation referred to in Part (1) above, Messrs. L. Jones, J. Miller, D. Goddard and J. Lipinski shall be paid the difference between the rate they were paid as trackmen and the rate they should have earned as Class 3 Machine Operators at their straight time and overtime rates of pay until the violation is corrected."

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 employe 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.

On March 26, 1990, the Claimants were awarded Trackman positions involving the operation of Sullair Type 185 air

compressors. The Organization claims that the positions should have been awarded as Machine Operator - Class 3, and asserts a past practice on the property of so awarding the positions. The Carrier, on the property, contended that the positions had always been advertised and awarded as Trackman positions, and the Organization provided no evidence to rebut this assertion. Under well-established precedents of the Board, this material assertion thus stands as established fact and we will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: *Catherine Loughrin*
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 26th day of October 1993.