

Award No. 12729
Docket No. MW-11466

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**THE NEW YORK, CHICAGO AND ST. LOUIS
RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it assigned or otherwise permitted track department forces from Section 3 to dismantle two (2) motor car take off platforms at Mile Post 42-16 and at Mile Post 42-38 and to construct and install two new take-off platforms.

(2) B&B Foreman Fred Bales and B&B Carpenters Donald Perkins and Oliver Hawk each be allowed nine (9) hours' pay at their respective straight time rates account of the violations referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: In compliance with orders by their superior, Track Department forces from Section No. 3 dismantled two motor car platforms constructed of 3½-inch by 8 inch by 8 foot wood planks at Mile Post 42-16 and at Mile Post 42-38 and then constructed two new motor car take-off platforms of 5 inch by 8 inch by 8 foot lumber. This work was performed on or about May 15 and May 20, 1958. A Section Foreman and two trackmen each consumed a total of 4½ hours on each motor car take-off platform, for a total of nine (9) hours expended by each of the track department employees. The instant claim was properly and timely filed and progressed on the property. The Carrier has declined to allow the claim.

The Agreement in effect between the two parties to this dispute dated February 1, 1951, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

POSITION OF EMPLOYES: Rule 52 is controlling here, particularly Sections (a), (b) and (c), which read:

**"RULE 52.
CLASSIFICATION OF WORK**

(a) This rule classifies the work to be performed by employees included within the scope of this agreement and is not intended to

The claim is wholly without merit and must be dismissed or denied.

(Exhibits not reproduced.)

OPINION OF BOARD: In accordance with the findings and conclusions of the Board in Award No. 12726, this claim also will be denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1964.