

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

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Burlington Northern Railroad Company  
(former St. Louis-San Francisco Railway Company)

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

(1) The Carrier violated the Agreement when it assigned Machine Operator D. L. Crisp to perform trackman's work on May 23, 31, June 4, 5, 6, 7, 14, 17, 18, 19, 20, 21 and 24, 1985 (System File B-1707-1/EMWC 85-9-18C).

(2) As a consequence of the aforesaid violation, Trackman G. J. Hollis shall be allowed one hundred four (104) hours of pay at the trackman's straight time rate for the claim dates referred to in Part (1) hereof and eight (8) hours of pay for each day subsequent to June 24, 1985 on which Machine Operator D. L. Crisp performs trackman's work."

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.

In Third Division Award 27696 we considered a dispute between these same parties involving identical issues to those involved in this Claim and sustained the Claim of the Organization on the basis that it was an Agreement violation to have Machine Equipment Operators perform Trackman's work when their machines were inoperable. We have not been persuaded that Award 27696 is in error and it will be followed here.

The Claim before us seeks 104 hours' pay covering nine days on which it is alleged that Machine Operator Crisp was utilized in the completion of Trackman's work. On one of the dates claimed, June 17, 1985, Carrier indicates that Mr. Crisp did not work at all. This has not been adequately refuted. Accordingly, the Claim will be sustained for 96 hours' pay at the straight time rate.

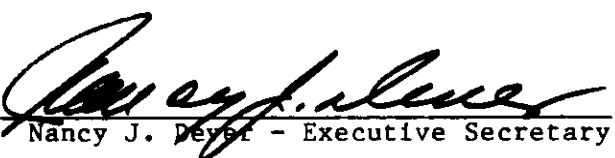
Form 1  
Page 2

Award No. 27874  
Docket No. MW-27355  
89-3-86-3-578

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:   
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 4th day of May 1989.