

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 30003
Docket No. MW-29503
94-3-90-3-434

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific Railroad Company

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

- (1) The Agreement was violated when the Carrier failed and refused to permit Sectionman D. R. Balls to work regular first shift hours with a starting time no later than 8:00 A.M. and instead required him to work second shift hours from 3:30 P.M. to 12:00 midnight (Monday through Friday) beginning Monday, April 24, 1989 (System File S-188/890648).
- (2) As a consequence of the aforesaid violation, Mr. D. R. Balls shall be allowed:

'...the difference between the straight time rate and the overtime rate for all services rendered from 4:30 p.m. to 12:00 midnight each Monday, Tuesday, Wednesday, Thursday and Friday since and including April 24, 1989. Additionally, it is claimed that Mr. Balls must be allowed at his applicable straight time rate seven (7) hours' pay for each Monday, Tuesday, Wednesday, Thursday and Friday since and including April 24, 1989, as he has been deprived of the right to perform service during the contractually designated work hours of 8:00 a.m. to 3:30 p.m. on each of those days. This claim will continue until this violation of the Agreement by the Carrier ceases to exist.'"

FINDINGS:

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

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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.

Except that it concerns a Sectionman rather than a Foreman, this dispute concerns the same set of circumstances as that reviewed in Third Division Award 30002. The Board reaches the same conclusion.

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 21st day of January 1994.