

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No.31559  
Docket No. MW-32216  
96-3-94-3-12**

The Third Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

**(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Chicago & North Western Transportation Company**

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

- (1) The Agreement was violated when the Carrier assigned RD 702 Interdivisional Tie Gang and RC 711 Interdivisional Rail Gang to work on washouts near Denison, Iowa on July 9, 10 and 11, 1993 instead of assigning P.A. Welding, R.D. McDuffee, H.D. Myers, J.A. Galindo and M.P. Sherer, who were members of AFE Gang #8, to perform said work (System File 4PG-3585T/81-93-147).**
- (2) As a consequence of the violation referred to in Part (1) above, AFE Gang #8 members P.A. Welding, R.D. McDuffee, H.D. Myers, J.A. Galindo and M.P. Sherer shall each be compensated for sixteen (16) hours' pay at their respective overtime rates and thirty (30) hours' pay at their respective double time rates."**

**FINDINGS:**

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

**The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 July 8, 1993, the Carrier's main line was taken out of service because of heavy flooding between Denison and Missouri Valley, Iowa. To repair the "washout," the Carrier used employees assigned to various work gangs. The question to be resolved is whether the Carrier improperly assigned work to employees junior to the Claimants. A further question is raised as to whether the Carrier called employees from different seniority districts to work on the "washouts" even though the work at issue was reserved to the Claimants' seniority district.

After a careful examination of the record developed on the property, the Board cannot resolve the various conflicting factors presented by the parties. Accordingly, in light of the insufficient record, we must dismiss the claim.

**AWARD**

Claim dismissed.

**ORDER**

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**By Order of Third Division**

**Dated at Chicago, Illinois, this 25th day of July 1996.**