

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31564
Docket No. MW-31199
96-3-92-3-932**

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (former Baltimore
(and Ohio Railroad Company)

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

(1) The Carrier violated the Agreement when it used Brakeman W. Spears to perform Maintenance of Way work (spreading stone around switch stands and cutting grass and brush) in the Grafton Yards, Grafton, West Virginia on August 13, 14 and 30, 1991 [System File B-TC,8566/12(92-41) BOR].

(2) As a consequence of the violation referred to in Part (1) above, furloughed Trackman J. R. Swisher shall be allowed pay at his respective straight time rate for the twenty-four (24) man-hours expended in the performance of the work described above and the applicable vacation and retirement credits in connection herewith."

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.

In Third Division Awards 30160, 30161, 31081, 31085 and 31269 involving the same parties in similar disputes involving work performed by a Safety Committee, the Board found that the Carrier violated the Agreement and sustained the claims. After a thorough review of the record in the instant case we find no basis to rule differently than the above-mentioned Awards.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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