

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 31570
Docket No. MW-31994
96-3-94-3-254

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
(
(Union Pacific Railroad Company (former Missouri Pacific
(Railroad Company)

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

(1) The Agreement was violated when the Carrier assigned Louisiana Division employees (B&B Gangs 1204, 1208 and 1812) to perform bridge work, i.e., install bridge ties and routine maintenance, at Mile Post 376.5 on the Harrihan Bridge, Memphis Sub and the Saline River Bridge, Little Rock Sub, Benton, Arkansas (Carrier's File 930414 MPR).

(2) As a consequence of the violation referred to in Part (1) above, Arkansas Division B&B employees B. L. Davis, B. R. Crutcher, J. W. Wallace, C. J. Beasley, G. R. Jameson, F. P. McDougal, R. L. Platt, D. W. Byrd, T. N. Young, G. W. Queen and C. B. King shall each be allowed pay at their respective time and one-half rates for the total number of man-hours expended by the Louisiana Division forces, retroactive sixty (60) days from the date of the initial claim and continuing until the violation ceases."

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.

The facts in this case are not in dispute. The Carrier used Louisiana Division B&B employees to perform bridge work on the Arkansas Division, which are separate seniority districts.

The Carrier takes the position that the employees were temporarily transferred under the provisions of Rule 6. This argument was not made on the property. In accordance with the Rules of the Board we cannot consider this argument.

The Organization filed this claim as a continuing violation of Rule 2. It further argues a monetary award is proper in cases such as this where the seniority rules are violated.

The Carrier argues that the Claimants were fully employed and suffered no monetary loss. It further argues that the Organization did not meet its burden in showing that the Agreement was violated.

The Board finds that Rule 2 was violated. To rule no monetary award would give the Carrier carte blanche to violate Rule 2.

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.