

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 31659
Docket No. MW-31194
96-3-93-3-191**

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

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

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned Car Shop employes to weld catch pans together on the tracks, beginning September 22, 1991 and continuing, instead of assigning Maintenance of Way Welder H. H. Cox and Welder Helper R. T. Simon [System File 6(33) (91)/12(92-120) LNR].**
- (2) As a consequence of the aforesaid violation, Welder H. H. Cox and Welder Helper R. T. Simon shall each be allowed eight (8) hours' pay at their respective straight time rates, beginning September 22, 1991 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 Organization filed this claim alleging Mechanical Department employees welded "catch pans" to the track at the Carrier's Louisville Fueling Facility.

As Third Party in Interest, the Sheet Metal Workers International Association was notified of this claim, but elected not to file a Submission with the Board.

The Organization has the burden of proof in this case. The Carrier denies Mechanical Department employees welded the "catch pans" to the track. The Organization is not specific as to when the alleged violation occurred.

This Board has no means to determine what occurred in this case. Accordingly, in line with numerous Third Division Awards this case will be denied.

AWARD

Claim denied.

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 29th day of August 1996.