

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 31662  
Docket No. MW-31201  
96-3-92-3-854**

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: (  
(National Railroad Passenger Corporation (AMTRAK)**

**STATEMENT OF CLAIM:**

"Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed and refused to furnish Maintenance Gang M-352, Welding Gang N-192 and Burro Crane Gang M-032 proper headquarter facilities as contemplated by Rule 84 beginning April 17, 1991 and continuing (System File NEC-BMWE-SD-2927 AMT).
- (2) As a consequence of the violation referred to in Part (1) above, each employee assigned to Maintenance Gang M-352, Welding Gang N-192 and Burro Crane Gang M-032 shall each be allowed one and one-half (1-1/2) hours' pay at their respective rates of pay for each day beginning April 17, 1991 and continuing until the violation is corrected."

**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 1978 the Carrier placed a trailer at Lincoln, New Jersey, to serve as a headquarters point for maintenance of way employees. On February 18, 1991 the Local Chairman of the Organization inspected the trailer and found the following:

1. Two large holes in the trailer floor, creating a tripping hazard;
2. Both the front and rear doors would not close, thereby allowing entrance of rodents into the trailer;
3. All windows either blocked, broken or missing;
4. Inadequate washing facilities to accommodate 18 night shift workers and eight day shift workers. Shower stall-bathtub filled with welding equipment;
5. Due to the doors being inoperative, heating of the trailer was impossible.
6. Inadequate locker facilities due to said lockers being filled with company material.

The Organization handled the matter with Carrier officials. When the trailer had not been replaced by April the Claimants allege they began traveling to the Adams headquarters some 45 minutes from Lincoln. The record does not reveal whether the Carrier directed such a move or whether the employees did so on their own. In fact, the record is void of any evidence that the Claimants actually traveled what is claimed. The Carrier replaced the trailer with a newly refurbished trailer on September 19, 1991.

The Organization filed this claim alleging a violation of Rule 84(a) which states:

**"RULE 84 - HEADQUARTERS**

**(a) Each designated headquarters will be supplied with lockers, washing and toilet facilities, proper heating, electrical fixtures, table and benches and will be maintained in a clean and sanitary condition."**

It also cites several Awards where Referees awarded travel pay in cases where headquarters points had been vandalized.

The Carrier argues that the trailer had met the requirements of Rule 84 for over 12 years and nothing had been removed from the trailer.

The Organization has the burden to prove the Agreement was violated. It never argues that the trailer was not supplied with lockers, washing and toilet facilities, proper heating, electrical fixtures, table and benches. It did claim that there were rodent holes in the floors, which were repaired, however it never claimed that the trailer was unclean or unsanitary. While there was welding equipment in the shower and company equipment in some of the lockers, one must ask who put the items in those locations, the "tool fairy."

This Board finds the Organization did not meet its burden that the Agreement was violated, and the record is also void of any evidence that the Claimants actually traveled the time claimed.

**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.**