

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 34018
Docket No. MW-31573
00-3-93-3-578**

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Burlington Northern Santa Fe Railway Company
((former St. Louis - San Francisco Railway Company)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned or otherwise permitted Truck Driver K. Moore and Track Foreman C. Campbell or Roadmaster J. Wescott to perform track patrol work between Nichols, Mile Post 242 and Monett, Mile Post 283 on May 16, June 13 and 14 and July 4 and 5, 1992 instead of assigning Patrol Gang 442 (Track Foreman R. D. Long and Trackman Driver G. D. Jackson) (System File B-1495-4/BMWC 92-08-05A SLF).
- (2) As a consequence of the violation referred to in Part (1) above, Track Foreman R. D. Long and Trackman Driver G. D. Jackson shall each be allowed twenty (20) hours' pay at their respective time and one-half 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 were given due notice of hearing thereon.

This case involves a claim by the Organization that the Carrier violated Rule 62(m) of the Agreement by assigning Track Gang 445 to perform track patrol work on the territory of Track Gang 442 on the latter Gang's rest days. The claim is identical in all respects, except for dates of the alleged violations, to claims raised before the Board in Third Division Awards 31136, 31670 and 31677. Each involves the same Claimants, gangs, issues, arguments and Agreements.

We therefore find no basis in the record to deviate from the Board's prior Awards. Accordingly, we find that for the reasons stated in those Awards, the Organization failed to meet its burden of proving that the actions of the Carrier are prohibited by the Agreement.

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 19th day of April, 2000.