

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30087
Docket No. MW-29310
94-3-90-3-212

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Union Pacific Railroad Company (former
(Missouri Pacific Railroad Company)

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

1. The Agreement was violated when the Carrier assigned System Rail No. 9109 instead of Arkansas Division employes to perform switch construction and installation work in the vicinities of Gurdon, Prescott and Hope, Arkansas on February 4, 5, 11, 12, 18, 19, March 4, 5, 11, 12, 18 and 19, 1989 (Carrier's File 890249 MPR).
2. As a consequence of the aforesaid violation, the Arkansas Division employes listed below* shall each be allowed ninety-six (96) hours of pay at their respective time and one-half rates.

"*R. Franks	Foreman
E.L. Harris	Asst. Foreman
O.C. Jackson	Trackman Driver
L. Hendrix	Trackman
E.E. Brown	"
D.L. Hunter	"
F.L. Kinder	"
W.R. Black	"
A.J. Kelley	"
G.E. Vincent	"
R.E. Roush	"
S.D. Cline	"
G.A. Wheeler	"
C.H. Burrows	"
T.W. Barnett	"
L. Hunter	Trackman"

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

This claim was filed on April 3, 1989, on behalf of sixteen Arkansas Division employees for ninety-six hours of pay at the time and one-half rate. In dispute was the work of building switches on the right-of-way and installation in the main line by a System Rail Gang in Prescott and Hope, Arkansas, between February 4 and March 19, 1989.

This Board finds the facts and arguments in this case to be similar to those in Third Division Awards 29977 and 30086. It was concluded in those two cases that the Organization did not meet the burden of proof that was required of it to prevail. We so hold in this instance.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of March 1994.