

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

**Award No. 32311  
Docket No. MW-31430  
97-3-93-3-424**

**The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.**

**(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Southern Pacific Transportation Company  
( Eastern Lines)**

**STATEMENT OF CLAIM:**

**“Claim of the System Committee of the Brotherhood that:**

- (1) The Agreement was violated when the Carrier assigned outside forces (W.E. Byler) to perform routine track maintenance work (cleared the right of way, regulated the track, spread rock on both sides of the siding and Main track, cleared a drainage ditch and mowed along the right of way) on the Old Bellaire Sub at West University between Wakeforest and Wesleyan Drive on Westpark Drive and on the Double Main on April 21 through 28, 1992 (System File MW-92-116/MofW 92-149 SPE).**
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with advance written notice of its intention to contract out said work as required by Article 36.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, furloughed Machine Operators R. A. Morales, R. E. McKinley, R. L. Dlabaj, O. Gillum, S. P. Resendez, E. Rodriguez, W. H. Green, M. H. Abrego and R. R. Lackey shall each be allowed forty-eight (48) hours' pay at their straight time rates of pay and twelve (12) hours' pay at their time and one-half rates of pay with six (6) days' credit for vacation purposes.”**

**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.

Except as to the type of maintenance of way work involved, this Claim is identical to that reviewed in Third Division Award 32308, and the Board reaches the same conclusion as in that Award.

**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 13th day of November 1997.