

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Award No. 32698  
Docket No. MW-31343  
98-3-93-3-354

The Third Division consisted of the regular members and in addition Referee Edwin H. Benn when award was rendered.

**PARTIES TO DISPUTE:** (Brotherhood of Maintenance of Way Employees  
(National Railroad Passenger Corporation (AMTRAK))

**STATEMENT OF CLAIM:**

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned Maintenance of Equipment Department employees instead of B&B plumbers to perform daily maintenance and repair work on the Race Street oil/water separator equipment beginning on April 6, 1992 and on a continuing daily basis thereafter (System File NEC-BMWE-SD-3146 AMT).
- (2) As a consequence of the aforesaid violation, B&B Plumbers S. Tiberi and F. Lawler shall each be allowed two (2) hours' pay at their respective rates for each workday beginning on April 6, 1992 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 were given due notice of hearing thereon.

As Third Party in Interest, The American Railway and Airway Supervisors Association (ARASA) was advised of the pendency of this dispute, but chose not to file a Submission with the Board. As Third Party in Interest, the International Association of Machinists and Aerospace Workers (IAM) was advised of the pendency of this dispute and chose to file a Submission with the Board.

On April 2, 1992 a new oil-water separator at Race Street in Philadelphia became operational. The new separator was constructed by B&B forces and replaced the former separator.

The new separator utilized new technology involving filters instead of baffles. The new technology required daily activities such as washing and changing the filters and adding chlorine to the system.

Those daily activities were assigned to M of E employees represented by ARASA and IAM. This claim on behalf of B&B Plumbers followed.

The Organization asserts that the work in dispute is maintenance work accruing to B&B Plumbers. The Carrier asserts that the new technology requires more functions in terms of operations, which have always been performed by M of E forces.

The burden in this case is on the Organization. The new separator is more complex than the equipment it replaced. The Organization has not carried its burden to demonstrate that the disputed work is maintenance to be performed by B&B Plumbers as opposed to operations work performed by M of E employees. The claim must therefore 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 19th day of August 1998.**