

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36591
Docket No. MW-35650
03-3-99-3-585**

The Third Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employees
(Burlington Northern Santa Fe Railway
((former Burlington Northern Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned Machinist D. Gelispy to perform routine maintenance on roadway equipment and machines assigned to Region Steel Gang RP-31 beginning April 1, 1996 and continuing, instead of assigning Roadway Equipment Repair Shop Sub-department mechanics (System File S-P-566-0/MWB 96-08-15AC BNR).**
- (2) As a consequence of the violation referred to in Part (1) above, all the Roadway Equipment Repair Shop Sub-department Rank B Mechanics*, including but not limited to those listed below, on the applicable Vancouver Shop Seniority Roster, shall now each receive compensation amounting to an equal proportionate share of all straight time and overtime paid to Machinist D. Gelispy beginning April 1, 1996 and continuing until the violation stops.**

**C. N. Dykman, Jr.
A. L. Cassell
L. L. Leo
E. A. Meldrum
H. N. Samples
M. A. La Plaunt
K. O. Schroeder
R. R. Wodarz**

**J. D. Morgan
W. B. Golie
J. B. Nugent
R. S. Fouts
S. J. Brunelle
R. E. Treser
T. J. Powrie
W. K. Tieman**

G. R. Williams
F. A. Highfill
T. N. Tsohonis
R. F. Nicol
M. R. Rau"

B. S. McLean
G. E. Williams
R. C. Owen
J. Y. Ruiz

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 International Association of Machinists and Aerospace Workers was advised of the pendency of this dispute and chose to file a Submission with the Board.

On April 30, 1996, the Organization filed a claim on behalf of all currently assigned Rank B Traveling Equipment Maintainers at the Vancouver roadway equipment repair shop.

It is the Organization's position that the Carrier violated the 1982 Labor Agreement when it assigned a mechanic represented by the International Association of Machinists and Aerospace Workers (IAM) to perform maintenance on roadway equipment machinery used by Regional Steel Gang RP-31. The Organization contends that this work is reserved to Traveling Equipment Maintainers by the 1983 Agreement. The Organization requested that Rank B Traveling Equipment Maintainers at the Vancouver shop be made whole for this lost work opportunity beginning April 1, 1996 and continuing.

The Board in Third Division Award 36590 addressed the precise issues raised by this claim. In that Award we concluded that the April 6, 1987 tri-partite Memorandum of Agreement, the so-called "Twin Cities Agreement," allowed the Carrier to assign both IAM-represented employees and BMW-represented employees to Regional Gangs on the Twin Cities Region. For the reasons set forth in that Award, we find that the Carrier had the right to assign an IAM-represented Machinist to repair roadway equipment used by Regional Steel Gang RP-31. The instant claim is denied as a result.

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 16th day of June 2003.