

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 40101
Docket No. MW-40442
08-3-NRAB-00003-080259**

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

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company (former Missouri
(Pacific Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier improperly allowed Mr. K. Nunn (from December 24, 2006 through January 9, 2007) to displace Mr. C. Ethridge from his assigned truck driver position on Gang 3807, which resulted in Mr. Ethridge traveling from his residence in Lubbock, Texas to a work location in Tyler, Texas and returning to his residence during said period and when the Carrier failed and refused to pay Mr. Ethridge the travel allowance for said round trip and when it failed and refused to pay him the per diem allowance for the dates beginning December 24, 2006 through January 9, 2007 (System File T07-02/1468859 MPR).**
- (2) As a consequence of the violations referred to in Part (1) above, Claimant C. Ethridge shall now receive payment of the travel allowance in the amount of two hundred dollars (\$200.00) and he shall receive the fifty-seven dollar (\$57.00) per diem allowance for each of the seventeen (17) dates beginning December 24, 2006 through January 9, 2007.”**

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.

The parties to the dispute advised the Board that the instant claim resulted in a non-precedent settlement. Because the claim before the Board is now moot, it must be dismissed.

AWARD

Claim dismissed.

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 November 2009.