

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Award No. 41597
Docket No. MW-41585
13-3-NRAB-00003-110188

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

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to call Section Gang 6113 employees W. Decker and P. Decker to perform overtime duties of cleaning snow from switches and associated duties in the yard at Pocatello, Idaho on December 13, 2009, and instead called and assigned employees to the section gang headquartered in Blackfoot, Idaho (System File C-0935U-157/1530325).
- (2) As a consequence of the violation referred to in Part (1) above, Claimants W. Decker and P. Decker shall now be compensated for four and one-half (4.5) hours at their respective overtime rates of pay.”

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 record evidence establishes that the Claimants held seniority on the section gang headquartered at Pocatello Yard. The Carrier assigned employees from the Blackfoot Gang to clean certain switches at the Pocatello Yard.

The Organization argues that the work should have been assigned to the Claimants because they were members of the regularly assigned section gang on that territory and were available to perform the overtime work. The Carrier counters that the work at issue was on Main Line switches. As such, that work was properly assigned to the Blackfoot Gang.

The Board carefully reviewed the record. The burden is on the Organization to establish a violation of the Agreement. The Organization failed to establish a violation of the parties' Agreement. The evidence establishes that the work at issue involved Main Line switches. Accordingly, the work was properly assigned to the Blackfoot Gang and not the Claimants' gang, which was headquartered in the Pocatello Yard.

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 24th day of April 2013.