

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 42597
Docket No. MW-42806
17-3-NRAB-00003-140531**

The Third Division consisted of the regular members and in addition Referee Robert A. Grey when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division -
(IBT Rail Conference
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed to assign Mr. R. Brunelle to perform work protecting freight main line track (flagging) for contractor forces engaged in removing scrap and ties on the main line beginning on September 4, 2013 and continuing and instead assigned SMW Plumber M. Keenan thereto (Carrier’s File MW-14-03).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant R. Brunelle shall be compensated ‘. . . ten hours per day, seven days per week on a continuous basis at the Foreman’s rate of pay at time and one-half, including all lost benefits incurred in favor of claimant Brunelle, until such time the Carrier ceases to utilize the SMW plumber’s craft to perform these duties. ***”**

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 Organization did not meet its burden to prove that flagging is reserved to the Organization. Nor did the Organization prove that its members perform flagging to the exclusion of all other NORAC-qualified Carrier employees.

In light of the above, the Board does not reach the parties' other arguments.

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 April 2017.