

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 44081
Docket No. MW-43850
20-3-NRAB-00003-190607**

The Third Division consisted of the regular members and in addition Referee Paul S. Betts when award was rendered.

**(Brotherhood of Maintenance of Way Employees Division
(IBT Rail Conference**

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company (Former Missouri Pacific)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned supervisory employe J. Meyers to repair a broken rail near Mile Post CPI 153 on May 30, 2015 instead of Mr. D. Link (System File UP646BT15/1631204 MPR).**
- (2) As a consequence of the violation referred to in Part (1) above, Claimant D. Link must be allowed nine (9) hours overtime at his time and one-half rate 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.

In the instant dispute, the Organization alleges that on May 30, 2015, the Carrier violated the Agreement by having Supervisor Meyer perform overtime track repair work in connection with the repair of a broken rail, rather than assigning the Claimant, who was available and qualified to perform the work. The Organization claims Supervisor Meyer worked a total of nine hours of overtime on the repair.

The Carrier argues that the Organization's claim is defective, factually inaccurate, and unsupported. The Carrier maintains that rail repair work was not performed on May 30, 2015, and Supervisor Meyer never performed said work. According to a statement provided by Supervisor Meyer, the broken rail occurred on May 24, 2015. On that date, Supervisor Meyer stated that he simply drove a truck to the location of the broken rail to stage the truck for repair work that was then performed by BMW employees.

After a thorough review of the record, the Board finds that the Organization failed to establish that the disputed work actually occurred on May 24, 2015, or that Supervisor Meyer actually performed the work as alleged by the Organization. As a result, the claim is denied.

Although the Board may not have repeated every item of documentary evidence, nor all the arguments presented, we have considered all the relevant evidence and arguments presented in rendering this Award.

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 11th day of August 2020.