

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 6302

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

UNION PACIFIC RAILROAD COMPANY

)

) Case No. 53

)

) Award No. 53

)

Martin H. Malin, Chairman & Neutral Member

D. D. Bartholomay, Employee Member

D. A. Ring, Carrier Member

Hearing Date: March 23, 2004

STATEMENT OF CLAIM:

1. The Agreement was violated when the Carrier used Gangs 9081, 4236, 4237, 4152, 4192, 4193, 4207, 4847 and Truck Operators Schreiner and Bulin to perform B&B carpenter's work of removing and installing planks and/or concrete crossings on May 31 through July 6, 1995 from Mile Post 75 to Mile Post 202 on the Marysville Subdivision of the Kansas Division instead of assigning B&B Carpenters M. J. Sweet, M. C. Woodyard, R. L. Hull, and J. A. Hintz (System File N-211/950545).
2. As a consequence of the violation referred to in Part (1) above, B&B Carpenters M. J. Sweet, M. C. Woodyard, R. L. Hull, and J. A. Hintz shall each be allowed an equal proportionate share of the eight hundred (800) straight time hours and three hundred eighty-four (384) overtime hours worked by the section forces on the claim dates.

FINDINGS:


Public Law Board No. 6302, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

The instant claim raises the identical issue that we resolved in Carrier's favor in Case No. 52, Award No. 52. Based on the holding and reasoning of Award No. 52, the instant claim must be denied.

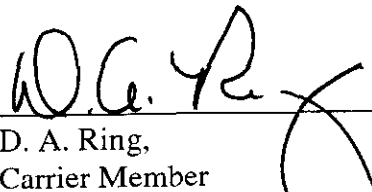
PLB 6302
Awd 53

AWARD

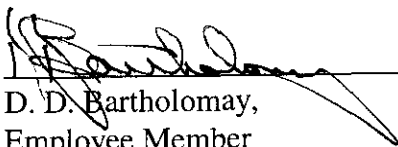
Claim denied.



Martin H. Malin, Chairman



D. A. Ring,
Carrier Member



D. D. Bartholomay,
Employee Member

Dated at Chicago, Illinois, July 23, 2004