

**NATIONAL MEDIATION BOARD**

**PUBLIC LAW BOARD NO. 6302**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

and

**UNION PACIFIC RAILROAD COMPANY**

)

) Case No. 54

)

) Award No. 54

)

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 4802, 4804, 4714 and 4715 to perform B&B carpenter's work of removing and installing planks and/or concrete crossings on April 18, 1997 through May 28, 1997 from Mile Post 76 to Mile Post 262 on the Kansas Division instead of assigning B&B Carpenters D. J. Bejan, R. L. Hull, M. E. Schooler and D. Anderson (System File N-471/1071768).
2. As a consequence of the violation referred to in Part (1) above, B&B Carpenters D. J. Bejan, R. L. Hull, M. E. Schooler and D. Anderson shall each be allowed an equal proportionate share of the straight time hours and overtime hours worked by the Track Subdepartment forces on the claim dates.

**FINDINGS:**

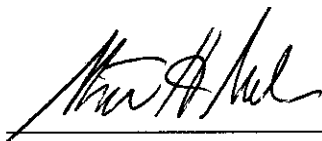
Public Law Board No. 6302, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and, that the Board has jurisdiction over the dispute herein; and, that the parties to the dispute were given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

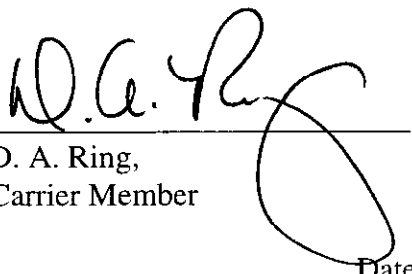
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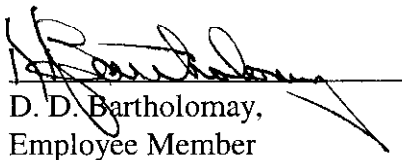
Claim denied.



Martin H. Malin, Chairman



D. A. Ring,  
Carrier Member



D. D. Bartholomay,  
Employee Member

Dated at Chicago, Illinois, July 23, 2004