

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4370

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

and

BURLINGTON NORTHERN RAILROAD COMPANY

AWARD NO. 46

Case No. 46

STATEMENT OF CLAIM

1. The Carrier violated the provisions of the current Agreement when it used B&B forces to do work that has historically and customarily been reserved for Track Department laborers.

2. The Carrier will now be required to compensate Claimants a total of 400 hours at straight time rate of pay and 78 hours at time and one-half rate of pay divided proportionately among the Claimants at the current laborer's rate of pay.

F I N D I N G S

This dispute concerns work performed between February 19 and March 14, 1991 involving "cutting rail, drilling holes, installing track ties and dumping ballast" on ballast deck bridges. The Organization contends that this work should have been performed by Track Subdepartment employees rather than Bridge & Building Subdepartment employees, arguing that ballast bridges differ significantly from open deck bridges.


The Organization has established that such work is at times performed by Track Subdepartment employees but has failed to provide convincing evidence that this work is reserved exclusively to such employees. In support of this, the Carrier refers to Third Division Award No. 25386, involving the same parties, which states in part:

[The Organization] does not refute, by citation or example, Carrier's contention that spiking and lining rail on a bridge is work that has been performed by both trackmen and bridgemen, as the need arose.

The distinction which the Organization makes between ballast bridges and other types of bridges is not encompassed in any cited rule.

A W A R D

Claim denied.



HERBERT L. MARX, Jr., Neutral Referee

NEW YORK, NY

DATED: April 27, 1993