

PUBLIC LAW BOARD NO. 5606

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
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 assigned and allowed Engineer of Track Gillam and Supervisor Dyer to perform Maintenance of Way work, i.e., painting a floor and moving furniture in the Engineering Office in Waterville, Maine for a total of six (6) hours on April 18 and 19, 2002, instead of assigning furloughed Bridge & Building (B&B) Mechanic J. C. Hafford.**
- 2. As a consequence of the violation referred to in Part (1) above, furloughed B&B Mechanic J. C. Hafford shall now be allowed six (6) hours' pay at the B&B Mechanic's straight time rate, i.e., six (6) hours at \$18.27 per hour, for a total of \$109.62. (Carrier File MW-02-34)**

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The issue here in dispute is not unlike that which was before the Board in Case No. 32, except that the work at issue involves time spent by supervisory officials of the Carrier in painting an office floor in addition to the movement of furniture related to the performance of that task. The claimant is also the same as in Case No. 32, namely, furloughed B&B Mechanic Hafford.

The arguments of the parties and the rules relied upon by the Organization in support of the claim are the same as had been advanced both on the property and to the Board in Case No. 32.


For the same reasons expressed by the Board in its Award No. 32 in disposition of Case No. 32, the instant claim is also denied for a lack of a necessary burden of proof for it to be concluded from the record as presented that there was, in fact, a violation of the rules of the controlling agreement.

AWARD:

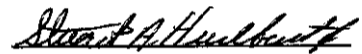
Claim denied.



Robert E. Peterson
Chair & Neutral Member



Anthony F. Lomanto
Carrier Member



Stuart A. Hulburt, Jr.
Organization Member

North Billerica, MA

Dated June 29, 2005