

AWARD NO. 6
NMB CASE NO. MW-32152
UNION CASE NO.
COMPANY CASE NO.

PUBLIC LAW BOARD NO. 6086

PARTIES TO THE DISPUTE:

TERMINAL RAILROAD ASSOCIATION
OF ST. LOUIS

- and -

BROTHERHOOD OF MAINTENANCE
OF WAY EMPLOYEES

STATEMENT OF CLAIM:

(1) The Carrier violated the Agreement when it assigned outside forces (Fitzpatrick-Murphy) to perform Maintenance of Way and Structures Department work (operate a backhoe to dig for sewer, gas and electric lines) at Madison Yard, Madison, Illinois beginning August 2, 1993 and continuing (System File 1993-33/013-293-14).

(2) As a consequence of the violation referred to in Part (1) above, Machine Operator D. Matthes shall be allowed eight (8) hours' pay at the machine operator's rate for each day worked by the outside forces beginning August 2, 1993 and continuing until the violation ceased.

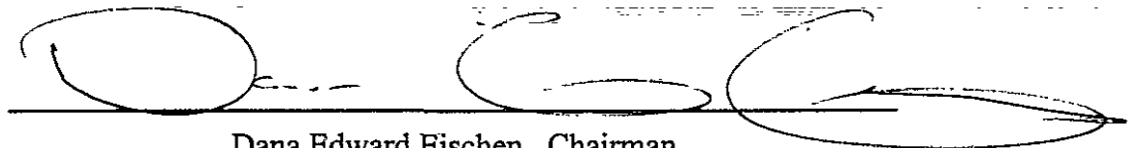
OPINION OF BOARD: This claim is a companion to Case No. 3, previously decided in favor of the Organization by this Board. The background facts and respective positions of the Parties in Case 3 and Case 6 cases are essentially identical; however, Case 3 involved B&B carpentry, concrete and related building construction work and Case 6 is specific only to the Machine Operator backhoe work involved in the project.

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For the same reasons articulated in Award No. 3 relative to his B&B counterparts, we shall sustain this claim by the Machine Operator. As in Third Division Award 31756, we will remand the matter to the property for the Parties to determine the number of hours outside contractor forces spent performing the backhoe work on this particular construction project, not including the plumbing, HVAC and electrical work performed by licensed subcontractors or the carpentry, concrete and related building construction work claimed by the B&B employees of Carrier in companion Case No. 3 before this Board. Once the final determination is made as the number of such hours and damages have been calculated at the applicable Machine Operator wage rate, we further order that the liquidated damages be paid to the employee named as Claimant in the instant case.

AWARD

- 1) Claim sustained.
- 2) Carrier shall implement this Award within thirty (30) days of its execution by a majority of the Board.



Dana Edward Eischen, Chairman
Signed at Spencer, NY on August 26, 2000


Union Member 8/31/00

Company Member