

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13354
Docket No. 13198
99-2-96-2-103**

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

**(International Association of Machinists and
(Aerospace Workers**

PARTIES TO DISPUTE: (

(Meridian & Bigbee Railroad Company

STATEMENT OF CLAIM:

- “1. That the Meridian & Bigbee Railroad Company improperly subcontracted Carmen work to GE RailCar in violation of the October 5, 1993 Agreement, as amended and in particular Appendixes 1 and 8, but not limited thereto.**
- 2. That accordingly, the Meridian & Bigbee Railroad Company be ordered to pay Carmen G. Frazier, E. Blanks, W. Brown and M. Hinson thirty-two (32) hours each at the straight time rate for a total of one hundred twenty-eight (128) hours at the straight time rate.”**

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

This claim protests Carrier's sending M&B boxcars 4177, 4294, 4211, 4201, 4297, 4299, 4168 to GE Rail Car on September 24, 1995 allegedly for various minor door hardware repairs. While protesting a different incident, it raises the same issue, and contains essentially the same on-property correspondence, as the claim considered by this Board in Second Division Award 13353. Unfortunately for the Organization, it suffers from the same evidentiary defects as found determinative in the prior case. We adopt the reasoning in that case as applicable herein, and find that the Organization failed to sustain its burden of proving that what was involved in this contracting was merely running repairs rather than a major overhaul as asserted by Carrier.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 20th day of January 1999.