

Award No. 3792
Docket No. 3587
2-CRI&P-EW-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)**

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: "1. That under the current agreement the Carrier improperly contracted out the rewinding of 18 traction motor armatures during the period of August 25 to and including September 23, 1958, to be performed by employees of contractors not subject to the current agreement.

2. That, accordingly, the Carrier be ordered to compensate the following named claimants at penalty rate, for the number of hours required to perform the above mentioned work according to electric shop records:

Dunahugh, Vern	Smith, Melville C. Sr.	Castor, Harry
Lear, Lowell G.	Coram, Edward A.	Vernig, Louis J.
Hardi, John	Sherwood, Ishmael	Loding, William J.
Cord, LaRue K.	Naab, Jos. P.	Addison, Pete
Carson, Donald F.	Poehls, Earl G.	Brock, Ralph K.
Carruthers, Paul P.	Smith, Wallace L.	Anderson, Robt. E.
Hobbs, Jack N.	LePera, Dominick	Lewis, Herbert C.
Martin, Alvin W.	Herlehy, John L.	Ziegler, Harold A.
Graham, Jess D.	Hanneman, Glenn R.	Orr, Everett L.
Larsen, John	Claeys, Herbert	Leedham, Howard R.
Merreign, Francis	Ickes, Howard O.	Thompson, Geo. R.
Ayers, Vernon L.	Scott, Richard R.	Rusland, Claude A.
Akins, Johnie R.	Buck, Merlyn V.	Brown, David C.
Steffenson, Ira S.	Bennet, Joel H.	Shaw, Thomas L.
Romer, James A.	Corder, Carl	Bowden, Orren B. Jr.
Keopple, Donald E.	Bell, Robt. L.	Padilla, Jos. J.
Frary, Robt. C.	Smith, Melville C. Jr.	Berlew, Chas. G. Jr.
Barns, Dale H.	Boney, James R.	Meyers, Byron
Barnhart, Claude M.	Poehls, Edward E.	Valentine, Ervin R.
Papish, Martin J.	Spurr, Edwin E.	Koehler, Paul W.
Alexander, Wm. P.	Borden, Roy A.	Brokaw, Harvey E.
Allee, Claude S.	Randell, Harry L.	Vollert, Harry
Halloway, Averill H.	Manner, Arthur W.	Kulhavy, Gerald W."

EMPLOYES' STATEMENT OF FACTS: The Chicago, Rock Island & Pacific Railroad Company, hereinafter referred to as the carrier, employes regular assigned forces in their electrical repair shop at Silvis, Illinois, to perform among other duties, the work set out in Part 1 of the claim above.

The carrier sent 12 of these armatures to National Coil Company, 4 to Electro-Motive Division of General Motors and 2 to General Electric Company for rewinding, and received a like number of rewound armatures in return.

This dispute has been handled with all carrier officials designated to handle such disputes, all of whom have declined to make adjustments satisfactory to the employes. The agreement effective October 16, 1948 as subsequently amended is controlling.

POSITION OF EMPLOYES: It is submitted that the foregoing statement of dispute is adequately supported by the terms of the aforementioned controlling agreement made in good faith between the carrier and System Federation No. 6 in pursuance of the amended Railway Labor Act, because:

1. The work covered in the above statement of claim and the statement of facts is expressly impanelled in the electricians special rules 101, 103, 104 and 106.

2. The shop facilities of the carrier at Silvis, Illinois are abundantly sufficient to handle the work in question properly and expeditiously.

3. The carrier's force of employes in the electrical workers craft possessed the necessary experience and skill to have performed the work in question in an expeditious and outstanding mechanical manner.

The carrier's action in sending this work to outside contractors was obviously deliberate and violative of the title page and of the letter and spirit of the terms of Rule 135, "Revision of Agreement" of the said controlling agreement and constitutes:

- A. Having such work here in question performed by outside interests that were not qualified under Rule 100 captioned "Electricians-Qualifications," or those who were promoted under the upgrading agreement.

- B. Having such work in question performed by outside interests without any seniority rights whatsoever under the seniority provisions of Rule 27.

- C. Having such work in question performed by outside interests that were not mechanics or apprentices within the meaning of the assignment of work provisions of Rule 28(a) or those who were promoted under the upgrading agreement.

Finally, it is respectfully submitted that, on the basis of the indisputable facts involved and the provisions between the covers of the controlling agreement applicable to them, that the statement of dispute is subject to be sustained in its entirety by the Honorable Members of this Division.

CARRIER'S STATEMENT OF FACTS: In August, 1958, carrier retired from its service 18 traction motor armatures and, pursuant to its established policy, the carrier shipped them, after removal from diesel engines by its employes, to the Electro-Motive Division of General Motors Corporation, General Electric Company, and National Coil Company, on a unit exchange basis.

industry, it should be considered as a proper exercise of managerial judgment. In the instant case, it was the carrier's judgment that the proper and sensible thing to do was to take advantage of the unit exchange service offered by the manufacturer and secure from them complete, modernized, upgraded, and warranted armatures rather than attempt to repair or rebuild worn and antiquated ones in kind which would not give us the advantage of remanufactured, modernized, converted and warranted armatures.

As previously stated, the receipt of the remanufactured, modernized, improved, upgraded and warranted armatures received on unit exchange purchase orders for older armatures bears more resemblance to the purchase of new ones than the maintenance and rebuilding of old armatures.

We submit without relinquishing our position as above, that, even if claim had merit, which we deny, there is no showing of loss or damage to any individual. It is also our position, as upheld by this and other Decisions of the Adjustment Board, that there can be no penalty, much less at time and one-half rate, for work not performed.

The employees' organization in this case are in agreement with the carrier's statement that these armatures were sent to above companies on a unit exchange basis, as per second paragraph of the general chairman's letter of September 9, 1959, reading:

"We do agree with you that these armatures were sent to these firms on the unit exchange basis for rewound armatures."

The carrier and employees, therefore, are in agreement that these armatures were handled on a unit exchange basis and, therefore, this same question and same type of case from this property has been before your Board on previous occasions for hearing in Awards 3228, 3229, 3230, 3231, 3232 and 3233 (Referee Ferguson) and 3269 (Referee Hornbeck), all of which were rendered in favor of this carrier. Further, Awards 2377, 2922, 3158, 3184 and 3185 have also upheld carriers in similar cases.

On basis of the facts and circumstances recited in the foregoing, we contend there was no violation of the employees' agreement.

We respectfully request your Board to deny this Claim.

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 is between the same parties and involves the same agreement and similar facts as considered in Award 3788, so like award should follow.

AWARD

Claim returned to the property for further showing as required in Award 3788.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1961.