Award No. 3794
Docket No. 3671
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 20 traction motor armatures during the period of Oct. 27 to Nov. 28, 1958, to be performed by employes 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.
Barnhart, Claude M.
Rusland, Claude A.
Poehls, Edward E.
Castor, Harry
Miller, Fred R.
Valentine, Ervin R.
Shaw, Thomas L.
Smith, Melville C. Jr.
Lear, Lowell G.
Papish, Martin J.
Frary, Robt. C.
Spurr, Edwin E.
Koehler, Paul W.
Ickes, Howard A.
Coram, Edward A.
Virnig, Louis J.
Ayers, Vernon L.
Lewis, Herbert C.
Sherwood, Ishmael S.
Bennett, Joel H.
Borden, Roy A.
Loding, Wm. J.
Cord, LaRue K.
Randall, Harry L.
Naab, Jos. P.
Addison, Pete
Carson, Donald F.
Hall, Emmett M.
Poehls, Earl G.
Corder, Carl
Brokaw, Harvey L.
Brock, Ralph K.
Carruthers, Paul P.
Smith, Wallace L.
Holloway, Averill H.
Thompson, Geo. R.
Anderson, Robt. E.
Hobbs, Jack N.
Bowden, Orren B.
LePera, Dominick
Alexander, Wm. P.
Herlehy, John L.
Vollert, Harry
Akins, Johnnie R.
Ziegler, Harold A.
Graham, Jess D.
Hanneman, Glenn R.
Meyers, Byron
Merreighn, Francis E.
Birlew, Chas. G. Jr.
Krantz, Raymond E.
Bell, Robt. L.
Keopple, Donald B.
Orr, Everett L.
Larson, John
Buck, Merlyn V.
Boney, Jas. R.
Marner, Arthur W.
Brown, David C.
Claeys, Herbert
Leedham, Howard
Barns, Dale H.
Hardi, John
Martin, Alvin W. Jr
Roemer, Jas. A.
Kulhavy, Gerald W.

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 services offered by the manufacturer and secure from them complete, modrnized, 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 to 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 Divisions of the Adjustment Board, that there can be no penalty, much less at time and one-half rate, for work not performed.

The employes' organization in this case is in agreement with the carrier's statement that these armatures were sent to the above companies on a unit exchange basis, as per third paragraph of the general chairman's letter of November 14, 1959, reading:

> "We do agree with you that these armatures were sent to these companies on an exchange basis for rewound armatures."

The carrier and employes, therefore, are in agreement that these armatures were handld 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 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 employes' 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 employe or employes involved in this dispute are respectively carrier and employe 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 waived right of appearance at 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.