

**Award No. 3912**

**Docket No. 3348**

**2-C&NW-MA-'62**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION No. 12, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. - C. I. O.  
(Machinists)**

**CHICAGO AND NORTH WESTERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That Machinists of the Chicago & North Western Railway have been unjustly damaged on or about May 14, 1957 to July 11, 1957, July 11, 1957 to August 27, 1957, August 27, 1957 to October 22, 1957 and continued to date, due to the Carrier contracting out the overhauling and repairs of Waukesha Ice Engines and generators to an outside concern.

2. That accordingly, the Carrier be ordered to compensate the following Machinists for 224 hours at pro rata rate to be equally divided among the claimants:

J. P. Carmosino, T. Semenoff, G. E. Reichard, Fred J. Matzke, Bill Kolomijec, Joseph E. Olechonwica, Herman Pett, Harry F. Brown, L. C. Steffy, E. P. Mosier, T. R. Bennett, Thomas Caldwell, A. Sicoli.

For the violation from July 11, 1957 to August 27, 1957, 320 hours to be equally divided among the following claimants:

J. E. Stocks, L. R. Steffy, Bill Kolomijec, Tom Caldwell, Marian Semenoff, Joseph Olechnowica, Thomas Bennett, Edward Mosier, G. F. Reichard, J. P. Carmosino, A. Sicoli, H. Pett.

For the violation from August 27, 1957 to October 22, 1957, 344 hours to be equally divided among the following claimants:

H. F. Brown, Bill Kolomijec, Thomas Caldwell, Marian Semenoff, J. E. Stocks, L. R. Steffy, E. P. Mosier, T. R. Bennett, E. Reichard, J. P. Carmosino, A. Sicoli, J. Olechnowicz and H. Pett.

**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 were given due notice of hearing thereon.

This case involves the same parties and agreements and presents the same issues as considered and decided in Award No. 3910. Like award should follow.

#### **AWARD**

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 5th day of January 1962.

#### **DISSENT OF LABOR MEMBERS TO AWARDS 3910, 3911 AND 3912**

The record shows that the repairs and overhauling of Ice Engines and Generators is work covered in the agreement between the Chicago and North Western Railway, and all that class of employes represented by System Federation No. 12 Railway Employees' Department A. F. of L.-C. I. O. Employes in the electrical workers', sheet metal workers' and machinists' craft performed their respective work on ice engines and generators for over twenty years, that is, from 1936 to 1957 when the carrier, under the guise of selling such equipment as unserviceable, contracted the work out and it was performed by employes not subject to the agreement between the parties to the present dispute. This is in violation of Rule 29 which provides that "None but mechanics and apprentices regularly employed as such, shall do mechanics' work as per special rules of each craft", in this instance Rules 62, 103 and 115.

The findings of the majority is an attempt to uphold the carrier in defeating the very purpose of the governing agreement and a contravention of the Railway Labor Act's prescription to "maintain agreements."

#### **LABOR MEMBERS**

**E. J. McDermott**

**C. E. Bagwell**

**T. E. Losey**

**Edward W. Wiesner**

**James B. Zink**