



Award Number 5958

Docket Number 5854

2-IC-EW- '70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. - C. I. O.
(Electrical Workers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the current Agreement on the Southern Lines beginning on or about April 8, 1968 and subsequent thereto, when it allowed employes of the Diversified Metals Company of St. Louis, Missouri, other than Electrical Workers covered by the Agreement, to come on the Illinois Central Railroad Company property and take down line wire off the Carrier's owned pole lines.
2. This being a continuing claim that the Carrier be ordered to compensate Claimants Lineman J. P. Kees for four hundred and forty (440) hours and Lineman R. C. Morris for three thousand nine hundred and forty (3940) hours at the pro rata rate as enjoyed by the employes of the Diversified Metals Company up to and including July 31, 1968, plus any additional compensation to which they, or other Linemen covered by this Agreement, are entitled to due to this continuing violation.

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.

The question presented in this dispute is identical to that in Award No. 5957, and the Board is governed accordingly.

A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 25th day of June, 1970.

**CARRIER MEMBERS' CONCURRENCE TO
AWARDS 5957 (DOCKET NO. 5853) AND 5958 (DOCKET NO. 5854)**

We agree that the claims in these dockets were without merit for the reasons set forth in the Findings, but they were not properly referable to this Division in the first instance. These claims involved an alleged subcontracting of work within the classification of work rule and, under the September 25, 1964 National Agreement, disputes of this kind are referable only to the Shop Craft Special Board of Adjustment therein established. Accordingly, the Division should have dismissed the claims for that reason rather than entertain them on their merits. See Awards 5938, 5939, 5940 and 5941 which involved the present parties. To the same effect are Awards 5633, 5667, 5668, 5750 and 5937.

/s/ J. R. MATHIEU
J. R. Mathieu

/s/ H. S. TANSLEY
H. S. Tansley

/s/ H. F. M. BRAIDWOOD
H.F.M. Braidwood

/s/ W. R. HARRIS
W. R. Harris

/s/ P. R. HUMPHREYS
P. R. Humphreys