Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 7745
SECOND DIVISION Docket No. 7614-T
2-MP-CM-'78

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: (System Federation No. 2, Railway Employes' Department, A. F. of L. - C. I. O. (Carmen)
(Missouri Pacific Railroad Company

Dispute: Claim of Employes:

1. That the Missouri Pacific Railroad Company violated Article V of the agreement of January 12, 1976 when they arbitrarily contracted out the work of rerailing diesel unit No. 1190 and freight car ATSF 312342 at Freeport, Texas to another railroad (Houston Belt and Terminal Railroad), March 30, 1976.

2. That, accordingly, the Missouri Pacific Railroad Company be ordered to compensate Carmen C. Sampson, E. Dalcour, and W. Roberson in the amount of four (4) hours each at the punitive rate of pay account of this 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.

Petitioner asserts that Carrier violated the provisions of Article V of the December 4, 1975 (effective Jan. 12, 1976) Agreement, when on March 30, 1976, the rerailing of diesel unit no. 1190 and ATSF freight car no. 312342 was contracted to Houston Belt and Terminal Railroad.

Carrier alleges that this Board may not properly consider the dispute. Its allegation is premised on Article VI of the September 25, 1964 Agreement which established Special Board of Adjustment No. 570 and Most particularly Section 8 of Article VI reading:

"The Board shall have exclusive jurisdiction over disputes between the parties growing out of grievances concerning the interpretation or application of Article I, Employee Protection, and Article II, Subcontracting."

The dispute at hand was handled on the property solely as a violation of Article V of the December 4, 1975 Agreement (effective January 12, 1976). Article V addresses itself to amending Article II of the September 25, 1964 Agreement (Subcontracting), and Article VI, Section 14 (Remedy), which relates itself entirely to subcontracting violations. It must be held, therefore, that this is a dispute between the parties growing out of grievances concerning the interpretation or application of Article II, Subcontracting. Special Board of Adjustment No. 570 has exclusive jurisdiction of such disputes.

This dispute should be distinguished from those covered in Awards from this Division where subcontracting was involved but the claim arose under classification of work rules or Special rules and did not involve the interpretation or application of Article II of the September 25, 1964 Agreement. (Awards 6257, 6325, 6529, 6800, 7436 and 7670).

A W A R D

Claim dismissed for lack of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 29th day of November, 1978.