

The Second Division consisted of the regular members and in addition Referee M. D. Lyden when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
and Canada  
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Article VII of the Agreement of December 5, 1975 when they contracted out the work of clearing a derailment at Snyder, Arkansas, July 5, 1977, to Hulcher Emergency Service without calling the regular assigned members of the North Little Rock, Arkansas wrecking crew.
2. That the Missouri Pacific Railroad Company be ordered to compensate Carmen J. D. Waddle, L. Wise, P. A. Piechoski, W. M. Wilson, H. Phillips, B. G. Pruitt, and H. A. Armstrong in the amount of thirty (30) hours each at the punitive rate of pay for 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 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 waived right of appearance at hearing thereon.

The Missouri Pacific Railroad Company violated Article VII of the Agreement of December 5, 1975 when they contracted out the work of clearing a derailment at Snyder, Arkansas, July 5, 1977, to Hulcher Emergency Service without calling the regular assigned members of the North Little Rock, Arkansas wrecking crew.

A review of Article VII, Section I reveals that once Carrier calls an outside contractor to perform wrecking service work, it is contractually obligated to call a sufficient number of its assigned wrecking crew to work with the contractor.

The second sentence of Article VII, which reads, "The contractor's ground forces will not be used, however, unless all available and reasonably accessible members of the assigned wrecking crew are called" specifically mandates that the contractor's ground forces will not be used unless all available and reasonably accessible members of the assigned wrecking crew are called. We do not find that Carrier complied with the letter of this requirement. It was under an explicit obligation to call these carmen first. It did not do so. They were reasonably

accessible and available. The claim to request pay for 7 named Carmen is excessive. Three groundmen Carmen are entitled to payment as outlined in the Award section of this document.

A W A R D

Item 1. Claim Sustained.

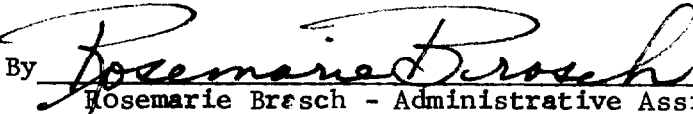
Item 2. Award as follows:

The Carrier shall pay 3 carmen wages, the amount of which shall be equal to the difference between the money the 3 carmen did indeed earn, and would have earned if they had performed the actual work of the wrecking crew. This determination reflects the total number of hours the contractor was used to perform the needed work using three (3) men and its round trip travel time. The identification of the three Carmen shall be mutually agreed upon by the Carrier and Organization.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Bräsch - Administrative Assistant

Dated at Chicago, Illinois, this 3rd day of June, 1981.