

Award No. 13053

Docket No. MW-13183

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**THE NEW YORK, CHICAGO AND ST. LOUIS
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) Carrier violated the effective agreement when it assigned the work of dismantling a number of buildings* of South Lima, Ohio to a contractor whose employees hold no seniority within the scope of the agreement.

(2) B&B Department employees C. O. Tidler, E. C. Guy, Fred Bales, William Kattness, Porter Lane, Donald D. Perkins, Donald Skinner, Lloyd Perry, Cleo Badgley, Oliver Hawk, Robert Norbeck, Alvin J. Taylor, Lewis A. Mason, Noel W. Gulley, W. H. Reece, Thomas P. O'Rourke, Ernest P. Burch, Harold McDonald, Ozzie Lee, Wiley Coats, Lee Tidler and John Cable each be allowed pay at their respective straight time rates of pay for an equal proportionate share of the total number of man hours consumed by the contractor's forces in performing the work referred to in part (1) of this claim.

*The buildings involved are the Master Mechanic and Front Office building (No. 90-1), Roundhouse (No. 90-2), Machine Shop (No. 90-8), Washout Plant (No. 90-6), Compressor House (No. 90-9), Toilet Building (No. 90-10), Blacksmith Shop (No. 90-11), Acetylene Building (No. 90-21), Car Inspector and Engine Oilers' Building (No. 90-27), Water tank, 50,000 gallon capacity (No. 90-30), Flues Shop (No. 90-23), Coal Dock Lift House (No. 90-50), Coal Dock and appurtenances thereto (No. 90-51), Water Treater Plant and Water Tank, 300,000 gallon capacity (No. 90-82), Sand Blast Storage (No. 90-104), Flue Rock Storage (No. 90-89).

EMPLOYEES' STATEMENT OF FACTS: The factual situation in this case was fully and accurately set forth in the letter of claim presentation which reads:

employees, we are of the opinion that no loss resulted to claimants". This same principle has been upheld in numerous other awards of this division, among them being Awards 1610, 3215, 3254, 3255 and 3839.

The Carrier also contends that it is of particular importance that the buildings which were to be demolished by the contractor became, under the contract, the property of the contractor. In other words, the structures which the contractor tore down were his own. These buildings and structures were obsolete, were no longer needed in the operations of the Carrier, and had been abandoned. They were accordingly demolished and hauled away by an outsider who wanted the salvage material.

The Carrier has shown that the claim is wholly without merit and should be declined.

(Exhibits not reproduced.)

OPINION OF BOARD: The parties and the issues in this case are the same as in Award No. 13052. For the reasons given and findings made in that Award we will deny the claim in this case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1964.