



Award No. 14425

Docket No. MW-12291

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

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

(1) The Carrier violated the effective Agreement when, on or about September 8, 1959, it assigned the work of repairing and remodeling its business offices on the second floor of the Passenger Station Building at Denison, Texas to the Cole Construction Company.

(2) Each employe holding seniority in the Bridge and Building Department on Seniority District No. 4 be allowed pay at his respective straight time rate for an equal proportionate share of the total man hours consumed by the contractor's forces in performing the work referred to in Part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: On or about September 8, 1959, the Carrier assigned the work of repairing and remodeling its business offices on the second floor of the Passenger Station Building at Denison, Texas to the Cole Construction Company.

The repair and remodeling of the business offices involved such work as installing suspension ceiling, cutting new openings and installing doors, repairing windows and frames, installing sheet rock partitions and baseboards, together with necessary painting.

The work was of the nature and character which heretofore has been usually and traditionally performed by the Carrier's Bridge and Building department employes. In fact, the Carrier assigned its Bridge and Building department employes to perform work of a similar character on this very same building during the months of December, 1958 and January, 1959.

The employes holding seniority in the Bridge and Building Department on Seniority District No. 4 were available, fully qualified and could have expeditiously performed the repair and remodeling work assigned to contract.

The Agreement violation was protested and claim as set forth herein was declined at all stages of the appeal procedure.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments, and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: Under date of October 29, 1959, General Chairman E. Jones, of the Brotherhood of Maintenance of Way Employees, wrote Division Engineer E. P. Kennedy, alleging that Carrier violated the controlling agreement when beginning on or about September 8, 1959 it allegedly assigned the work of repairing certain of its offices located on the second floor of the Passenger Station at Denison, Texas, to Cole Construction Company, and presenting claim on behalf of unnamed and unidentified Bridge and Building Department Employees on Seniority District No. 4 for an equal proportionate share of the total man hours consumed by the contractor's forces.

General Chairman Jones' letter of October 29, 1959 to Division Engineer E. P. Kennedy has been reproduced by the photocopy process, and an exact facsimile copy of that letter is attached hereto as Carrier's Exhibit A, Sheets 1, 2, 3 and 4.

No valid claim having been presented in General Chairman Jones' letter of October 29, 1959, the Carrier, at every stage of the handling on the property, took the position that the said letter did not constitute the presentation of a valid claim under the provisions of Article V, Carrier's Proposal No. 7 of the August 21, 1954 Agreement. The Organization differed with the Carrier in this respect, of course, and there is now before your Division, in addition to the purported claim contained in General Chairman Jones' letter, the question of whether a labor organization is permitted, under the August 21, 1954 Agreement, to embark upon fishing expeditions of this kind, or whether they, also, are required to comply with the provisions of the August 21, 1954 Agreement with respect to presenting and handling claims.

Actual photocopy reproductions of all correspondence exchanged by the parties in the handling of this purported claim on the property are attached hereto as Carrier's Exhibit A.

The controlling Agreement, No. DP-173, effective September 1, 1949, and the National Agreement of August 21, 1954 are on file with the Third Division, National Railroad Adjustment Board.

(Exhibits not reproduced.)

OPINION OF BOARD: Carrier made timely denial of this claim on the property for the reason that it does not identify "the employe involved" with such particularity as to comply with requirements of Article V 1(a) of the National Agreement of August 21, 1954.

The description of the employes in paragraph (2) of this claim is, in substance, the same as paragraph (2) of the claim in Award 14316.

For the reasons stated in Award 14316, this claim also will be dismissed.

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 Employes involved in this dispute are respectively Carrier and Employes 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 the Claim is vague, uncertain and indefinite.

AWARD

Claim is dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of May 1966.