



Award No. 16752
Docket No. MW-17100

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

Arnold Zack, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it assigned or otherwise permitted outside forces to reroof the Passenger Station at Ottumwa, Iowa. (Carrier's File M-1161-66)

(2) Each Bridge and Building Sub-department employe who was working the Ottumwa Division as such on May 2, 1966 be allowed pay at his respective straight time rate 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.

EMPLOYES' STATEMENT OF FACTS: Commencing on May 2, 1966, the Carrier, without benefit of negotiations with or the concurrence of the Employes, assigned or otherwise permitted outside forces to renew the roofing on the passenger station at Ottumwa, Iowa.

The work consisted mainly of removing the old roofing material, of installing, as required, alternate layers of asphalt felt cemented together with hot asphalt, and of surfacing same with tar and gravel.

The area of the roof was approximately 8,650 square feet.

The claimants, who had previously performed similar and identical work at this and other locations using tools and equipment furnished by the Carrier, were available, qualified, and could have efficiently and expediently performed this work had the Carrier so desired.

Claim was timely and properly presented and handled by the Employes at all stages of appeal, up to and including the Carrier's highest appellate officer.

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: A contract was entered into with a roofing contractor for installing a 20-year bond type, five-ply tar and gravel roof, carrying a ten-year guarantee, on the Ottumwa, Iowa, depot and office building, in conformity with the practice that has been in effect on this property since 1922.

The schedule of rules agreement between the parties, effective September 1, 1949, and amendments thereto, including the August 21, 1954 Agreement, are by reference made a part of this submission.

OPINION OF BOARD: Commencing May 2, 1966 Carrier assigned to outside contractors certain work involving reroofing the Passenger Station at Ottumwa, Iowa.

Organization filed the instant claim asserting that this work is reserved to Bridge and Building employees under the clear language of Rules 1 and 2 of the parties' Agreement. Carrier denies that this is work covered by the Agreement, inasmuch as reroofing work had always been contracted out, making it excluded work not customarily done by bargaining unit employees.

The practice of contracting out such work as here in dispute is unchallenged. This Board has been confronted with this same issue between the same parties on several occasions. In prior decisions this Board has held that the long history of contracting out work was a recognition by the parties that such work is outside the Scope of the Agreement and, hence, as in this case, the Agreement was not violated. (Awards 7600, 11716, 13638, 14297)

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of November, 1968.

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