

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19327
Docket Number MW-19362

Joseph E. Cole, Referee

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE: (

(Southern Pacific Transportation Company (Pacific Lines)

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

(1) The Carrier violated the Agreement when, without advance notice to the General Chairman as required by Article IV of the May 17, 1968 National Agreement, it assigned fence construction work at Castaic Junction, Norton Air Base, Hugo Station and Moorpark to outside forces (System File MofW 152-709).

(2) Locomotive Crane Engineer R. G. Barrios, Pile Driver Engineer E. F. Cloutier, B&B Foreman D. Wanous and Carpenters A. M. Alonzo and M. A. Medina each be allowed pay at their respective straight time rates for an equal proportionate share of the total number of man hours expended by outside forces in the performance of the work referred to within Part (1) of this claim.

(3) The Carrier shall also pay the claimants six percent (6%) interest per annum on the monetary allowances accruing from the initial claim date until paid.

OPINION OF BOARD: 1. There is no place in the record that shows that any of the claimants suffered any pecuniary loss of wages.

2. Placing of fences was in the scope of employment of these claimants and notice should have been provided to the Organization as provided in Article IV of the May 17, 1968 Agreement.

3. This Board adopts, in its entirety, the reasoning and conclusions of Arthur Devine in his Award 18714 of the Third Division, and affirms fully Paul Dugan's Award 18305 regarding damages.

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;

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

That the Agreement was violated as set forth in the Opinions above mentioned, and made a part of this Opinion.

A W A R D

Part (1) of the claim is sustained.

Part (2) and (3) of the claim are denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. G. Killen
Executive Secretary

Dated at Chicago, Illinois, this 14th day of July 1972.