

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19352
Docket Number MW-19378

Joseph E. Cole, Referee

(Brotherhood of Maintenance of Way Employees

PARTIES TO DISPUTE:(

(Soo Line Railroad Company

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

(1) The Carrier violated the Agreement when it assigned other than Bridge and Building forces to perform the work of repairing, remodeling and painting the interior of outfit cars. (System File 800-46-B-126)

(2) B&B Foremen M. Hanson and M. Stewart; Assistant Foreman L. Scheller, Carpenters H. Voeltz, J. Jaeger and J. Huber; Carpenter Helpers J. Williams, A. Huber, R. Russ and W. Lundgren; Painter H. Luoto and/or their successors each be allowed pay at their respective straight time rates for an equal proportionate share of the total number of man hours consumed by other forces in performing the work referred to in Part (1) hereof beginning November 26, 1969 and continuing thereafter until the violation referred to in Part (1) of this claim is discontinued.

OPINION OF BOARD: 1. The record shows that members Carmen's Union and the Maintenance of Way crafts have performed these duties as described.

2. The agreement as signed was a legitimate agreement between the Carmen and the Carrier.

3. The work as described was not exclusively either the Maintenance of Way, or the Carmen. It is not set out in the agreement as such for the Maintenance of Way employees.

4. After the agreement between the Carmen and the Carrier on December 5, 1969, such work was the work of the Carmen.

5. If the record would show that the December 5 agreement was executed by either the Carrier, or the Carmen, with the purpose to defraud the Maintenance of Way Union, the remedy would be elsewhere than this Board. The record does not show this. It is alleged but there is no evidence, that the Maintenance of Way workers did not know about the December 5 agreement until after it had been put in effect. The Board cannot supply a conclusion about that proposition.

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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 the Agreement was not violated.

A W A R D

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 28th day of July 1972.