

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number **21079**
Docket Number MW-20976

Francis X. Quinn, Referee

(Brotherhood of Maintenance of Way **Employees**
PARTIES TO DISPUTE: (
(Chicago and North Western Transportation 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 perform construction work on the "House-Track" and the "Elevator Track" at **Heron** Lake, Minnesota (System File **C-23/81-19-85**).

(2) The Carrier violated the Agreement when it assigned or otherwise permitted outside forces to perform construction work on the "House Track" at Magnolia, Minnesota (System File O-26/81-19-86).

(3) The Carrier also violated Article IV of the May 17, 1968 National Agreement when it did not give the General Chairman advance written notice of its intention to contract said work.

(4) Section Foreman **J. F. Peterson**, Laborers **W. W. Potter**, **W. Van Name** and Machine Operator **C. Grimmus** each be allowed pay at their respective rates for an equal proportionate share of the total number of men-hours expended by **outside** forces in performing the work described in Part (1).

(5) Section Foreman **C. Musgrove**, Laborers **D. Remme**, **J. Kreen** and Machine Operator **C. Grimmus** each be allowed pay at their respective rates for an equal proportionate share of the total number of map-hours expended by outside forces in performing the work described in Part (2).

OPINION OF BOARD: The disputes herein are identical in all important aspects with those considered in Awards 20895, 20945 and 20950. In view of the record and the logic of these Awards we **must** be guided by the principles of res **judicata** and sustain the claim in its entirety.

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.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *G.W. Paulson*
Executive Secretary

Dated at Chicago, Illinois, this 19th day of May 1976.