

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26208
Docket Number MW-26108

John E. Cloney, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Seaboard System Railroad

STATEMENT OF CLAIM: "Claim of the System Camittee of the Brotherhood that:

1. The Carrier violated the Agreement when it used Mechanical Department forces instead of Bridge and Building Department forces to construct office space at Uceta Yard, Tampa, Florida, during June, 1980 [System File C-4(36)-Tampa Div.-8/12-1(81-11)G].

2. Because of the aforesaid violation, each Group A and G B&B employee holding an assignment on the Jacksonville and Tampa Divisions during the claim period be allowed pay at their respective straight-time rates for an equal proportionate share of the total number of man-hours expended by Mechanical Department forces in performing the work referred to in Part (1) hereof."

OPINION OF BOARD: The Organization claims that Carrier violated the Agreement when it used its Mechanical Department forces instead of Bridge and Building Department forces to perform certain work at the Uceta Yard, Tampa, Florida.

The work consisted of the conversion of a forty foot highway trailer into office space. This involved replacing the trailer doors with a wall, cutting holes for windows and doors and installation of same, installation of one ventilating fan in the wall and two in the roof, wiring of the trailer, and placement of paneling and partitions.

Rule 1, The Scope Rule, provides:

"These rules cover the hours of service, wages and working conditions for all employees of the Maintenance of Way and Structures Department as listed by Subdepartments in Rule 5 - Seniority Groups and Ranks, and other employees who may subsequently be employed in said Department, represented by Brotherhood of Maintenance of Way Employees."

The Claim as filed is said to be on behalf of each Group A and G B & B employees holding an assignment on the Jacksonville and Tampa Divisions during the claim period.

Carrier contends that in the past this and similar work has been done by Carmen and by other Mechanical Department forces as well as by Maintenance of Way **Employees**. Carrier contends it has had a diverse practice of performing work of this nature for many years on the Tampa Division at certain locations including the Uceta Yard.

Carrier also attacks the Claim as being vague and uncertain and asserts no proper Claim is before the Board. **We** do not agree.

As third party in interest, the Brotherhood Railway **Carmen** of the United States and Canada was advised of the **pendency** of this case, but chose not to file a **Submission** with the Division.

The **Scope** Rule involved in this Claim is general in nature and this Claim is one of a series of recent Claims regarding its meaning or application. Award 25090 states:

"This **Board** has carefully reviewed the record of this case and the many citations **submitted** by both sides in support of their respective positions. The results of that review reveals that Carrier is correct that both B & B Department personnel and Mechanic Department personnel have performed the disputed **work** at various times and various locations on the property. It also reveals that the Scone Rule involved here is general in nature and does not specify that the disputed work belongs only to the B & B Department **employees**."

Awards 23852 and 24028, involving the parties, **noted** the Scope Rule is general in nature.

We believe the language of Award 25090 quoted above is equally applicable to this Claim.

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.

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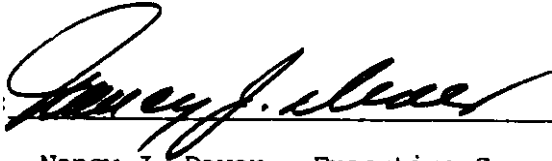
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

A handwritten signature in dark ink, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 15th day of January 1987.