

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26376
Docket Number MW-25957

Eckehard Muessig, Referee

(Brotherhood of Maintenance of Way **Employees**

PARTIES TO DISPUTE: (

(The Denver and **Rio Grande** Western Railroad Company

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

(1) The Carrier violated the **Agreement** when it assigned outside forces to perform **subgrade** work between **Rubideau** and Huff on North Fork Branch beginning on December 19, 1982 (**System File D-6-83/MW-20-83**).

(2) Because of the aforesaid violation, Road Equipment Subdepartment employes K. E. Aul:, S. Johnson, M. Holtrop, C. **Mings**, L. Bartlett, D. E. **Lamarine**, T. G. **Mendieta**, E. D. **Tellin**, R. Lee, B. **Averill**, K. A. Dye, G. L. **Dodson**, D. E. Fuqua, K. D. Nelson, I. **B. Bray**, W. J. Williams, C. **P. LaBrahe**, C. K. Johnson, S. R. **Berkenkotter**, L. R. Chavez, D. J. Reader, Bill Ussery, Sr., J. L. Gentile, D. E. **Jacox** and C. R. Crane shall each be allowed pay at their **respective** rates for an equal proportionate share of the man-hours expended by outside forces in the performance of Road Equipment Subdepartment work and Track Subdepartment employes **Ramino Prieto**, D. P. **Simineo**, R. R. **Gerzetich**, A. L. Crawford, J. L. **Prock**, B. E. Maki, D. R. **Parmenter**, K. L. **Bateman** and B. G. **Kirkwood** shall each be allowed pay at their respective rates for an equal **proportionate** share of the man-hours expended by outside forces in the performance of Track **Subdepartment** work beginning on December 19, 1982."

OPINION OF BOARD: This is a dispute that **arose** after **the** Carrier assigned outside forces to perform grade work beginning on December 19, 1982.

The Board **notes** that the key issues and **the** relevant **situation** leading to this Claim are identical to those resolved in previous Awards covered by identical agreement language and issues. (See Third **Division** Awards Nos. 25677, 25141 and 25103).

For the **reasons stated** in our Award No. 26375, and the prior Awards involving the same Issues, **the** Claim is sustained as follows in the same manner as was done in Third Division Award 25677:

"Claim for each named Claimant is **sustained** for wage loss suffered, i.e., the named Claimant's **proportionate** share of time when added to his straight-time compensable **time** for period involved shall be limited **so** as not to exceed the total of his normal compensable time."

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 violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest::


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1987.