

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26378
Docket Number MW-26010

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Northeast Illinois Regional Commuter Railroad Corporation
(Former Chicago, Rock Island & Pacific 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 track welding and grinding work at Blue Island, Illinois, May 16, 1983 through July 28, 1983. (System File NIRCRC-P-749).

(2) The Carrier **further** violated **the** Agreement when it did not give the General Chairman prior notification of its plan to assign said work to outside forces.

(3) The senior welder, welder helper and the three (3) senior laborers listed on the appropriate roster shall each be allowed pay at their respective rates for an equal proportionate share of the total number of man-hours expended by outside forces in performing the work referred to in Part (1) hereof."

OPINION OF BOARD: This dispute arose after the Carrier contracted with outside forces to perform track welding and grinding work at Blue Island, Illinois. The Organization essentially contends **the contracted** work is of the character **that** traditionally, customarily and historically has been performed by its **craft**. Moreover, it **submits** that the Carrier **contracted** with an outside firm to perform the work in **question** without prior notification to the Organization's General Chairman pursuant to **the** parties' October 31, 1978 Memorandum of Agreement.

It is undisputed that the Carrier failed to provide the proper **written notification**. Accordingly, while we understand the Carrier's reasons for not doing so, we cannot agree that **its** failure to properly notify the **Organization** was not a breach of the Agreement.

With respect **to** the remedy requested in Part 3 of the Claim before **us**, we concur in the general holding that where Claimants are fully employed and no loss of earnings has been demonstrated, no monetary damages may be awarded. In the case before us, it is not clear whether the Claimants were on furlough or fully employed. Accordingly, it is the intent of this Award, based **on** the Carrier's records, to make the Claimants whole and they are to be compensated for any period that they were furloughed (if such is the case)

during the time frame that the outside forces worked during the period from May 16, 1983 through July 28, 1983.

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.