

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26487
Docket Number MW-25996

Irwin M. Lieberman, Referee

(Brotherhood of Maintenance of Way Employes

PARTIES TO DISPUTE: (

(Consolidated Rail Corporation

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

1. The Carrier violated the Agreement when it assigned outside forces (Watts Construction Company) to perform Maintenance of Way work at Rose Lake Yard from August 27 through October 6, 1982 (System Docket No. CR-139).

2. The Carrier also violated the Agreement when it did not give the General Chairman advance written notice of its intention to contract out said work.

3. As a consequence of the aforesaid violations, Messrs. C. D. Blase, J. A. Davidson, R. L. Netemeyer, P. Malony and D. G. **Hartman** shall each be allowed two hundred thirty-two (232) hours of pay at their respective straight time rates and one hundred thirty-seven (137) hours of pay at their respective time and one-half rates."

OPINION OF BOARD: The dispute herein deals with the alleged contracting out of certain work between August 27, 1982, and October 16, 1982, at Rose Lake Yards in East Saint Louis, Illinois. The dispute is identical to that considered by the Board in Third Division Award No. 26103 which dealt with the same incident, but in this dispute there are different Claimants. As in the earlier dispute, the Board finds that Carrier had no control over the work being contracted and therefore the sub-contracting was not within the Scope of the Agreement. Third Division Award No. 26103 is controlling.

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 Employes involved in this dispute are respectively Carrier and Employes 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

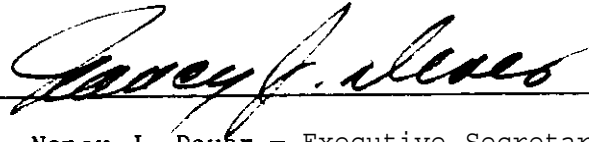
That the Agreement **was** not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:

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

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.