

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26546

Docket Number MW-26302

Rodney E. Dennis, Referee

(Brotherhood of Maintenance of Way Employees

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 to perform grading and other work in conjunction with the Production Gang on Allegheny 'A' Division May 2, 1983 to August 15, 1983 (System Dockets CR-578 and CR-579).

(2) The Carrier violated the Agreement when it assigned outside forces to perform grading and other work in conjunction with the Production gang on Allegheny 'A' Division May 2, 1983 to November 30, 1983 (System Dockets CR-568 and CR-577).

(3) The Carrier also violated the Agreement when it did not give the General Chairman advance written notice of its intention to contract the work referred to in Parts (1) and (2) above.

(4) As a consequence of the violations referred to in Parts (1) and (3), Class 1 Machine Operators K. J. Kozar and P. F. Williams shall each be allowed pay at the Class 1 machine operator's rate for an equal proportionate share of the total number of man-hours expended by outside forces sixty (60) days retroactive from September 29, 1983.

(5) As a consequence of the violations referred to in Parts (2) and (3), Class 1 Machine Operators V. U. Luther and J. W. Hoffmaster shall each be allowed pay at the Class 1 machine operator's rate for an equal proportionate share of the total number of man-hours expended by outside forces sixty (60) days retroactive from September 29, 1983."

OPINION OF BOARD: This Board has been presented with a number of Claims involving the subcontracting of Maintenance of Way work to outside forces. In reviewing and rendering Third Division Award No. 26314 (with dissent by Carrier Members), we explained in detail the Board's position on use of outside forces, however, because this Claim was not timely handled by the Organization on the property, we have no other recourse than to dismiss same without reaching the merits.

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 Claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois this 30th day of September 1987.