

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28688
Docket No. MW-28574
91-3-88-3-407

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(CSX Transportation, Inc.
(Former Seaboard System Railroad)

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

(1) The Carrier violated the Agreement when, without an understanding being reached between the Chief Engineering Officer and the General Chairman as required by Rule 2, it assigned or otherwise permitted outside forces to perform the duties related to the construction of a Signal Shop in Savannah, Georgia beginning on or about April 27, 1987 [System File CARP-87-68/12-(87-860) Q].

(2) Because of the aforesaid violation, Carpenter Foreman J. Myers, Carpenters G. W. Morgan, W. H. Smith, J. E. Mathis, Carpenter Helpers J. R. Yates, W. Scott, D. Parnell and Machine Operator C. Cox shall be allowed pay at their respective pro rata rates for an equal proportionate share of the total number of man-hours expended by the outside forces in performing the work referred to in Part (1) hereof."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On March 13, 1986, the Carrier and the Brotherhood of Railroad Signalmen entered into an Agreement providing for all Signal Shop work to be consolidated at Savannah, Georgia. The Carrier notified the Organization of its need to contract out the construction of a 50 x 200 foot Signal Shop in accordance with Rule 2. A conference was held on November 20, 1986, and subsequently telephone conversations were held on December 8, 19, and 23, 1986. A last conference was held on January 19, 1987. The parties did not reach an understanding. Then on January 20, 1987, the Carrier informed the Organization that the contracting out would commence as soon as possible.

The Organization argues the Claimants were fully qualified and possessed the skills necessary to perform the work in question. Furthermore, the Organization views the Carrier's assertion that the project was of a magnitude beyond the capacity of its employees to be no more than an assertion. The Organization also contends the Carrier's allegation that it lacked the necessary equipment, standing alone, is not a valid reason for violating the Agreement.

The parties' inability to reach an understanding setting forth the conditions under which the work on the new Signal building was to be performed is seen by the Organization as a failure by the Carrier to comply with Rule 2. This Board is unable to find a provision in Rule 2 which requires the Organization's Claim to be upheld simply because an understanding was not reached. Herein, the Organization has not met its burden of proof and shown that Carrier forces and equipment were adequate and available.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1991.