

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Northeast Illinois Regional Commuter Railroad Corporation

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

(1) The Agreement was violated when the Carrier assigned outside forces to perform clearing, grubbing and hauling work on the right-of-way from 16th Street to the Signal Bridge at 23rd Street on both sides of Main Lines 4 and 5 at Chicago, Illinois, beginning August 4, 1986 (System File NIRCRC-O-541/08-3.3-67).

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

(3) Because of the violations referred to in Parts (1) and/or (2) above, Track Foreman J. Jachna, Assistant Track Foreman R. A. Lopez, Trackmen C. Spencer and J. Johnson and Machine Operators R. T. Hooker, Jr., J. Alvarez and L. Alvarez shall each be allowed fifty-six (56) hours of pay at their respective time and one-half rates."

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 employes 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.

The Board finds that the Carrier violated the Agreement by contracting out the work in dispute. The sole remaining issue is the scope of the remedy. After reviewing the record in its entirety, we find that the issue can best be resolved by directing the parties, within a reasonable period from the date of the issuance of this Award, to check Carrier's records to verify the number of hours that outside forces were used to perform the work at issue. The named Claimants shall be entitled to compensation based on the total number of hours actually worked by the outside contractor in the performance of the disputed work divided equally among the seven Claimants.

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Award No. 29258  
Docket No. MW-28184  
92-3-87-3-847

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 12th day of June 1992.