

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Brotherhood of Maintenance of Way Employees  
PARTIES TO DISPUTE: (  
(Kansas City Southern Railway Company

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

(1) The Agreement was violated when the Carrier assigned outside forces (A. K. Gillis) to perform basic track work in the vicinity of Mile Post 554 on the south end of Deramus Yard on June 2, 1987 [Carrier's File 013.31-320 (233)].

(2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with advance written notice of its intention to contract out said work as required by Article IV of the May 17, 1968 National Agreement.

(3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Messrs. O. P. Turner, P. Stratton, J. Baylor, Jr., R. Snell and A. L. Bell shall each be allowed twelve (12) hours of pay at their respective straight time 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 employee or employees involved in this dispute are respectively carrier and employees 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 arguments and evidence submitted by the Organization in this Claim are identical to those dealt with in Third Division Award 29253. In that Award the Board sustained the Claim on the basis that Carrier failed to provide the Organization with the notice required under Article IV of the May 17, 1968 Agreement. However, the Board did not allow Claimant's compensation. That Award will be followed here.

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Award No. 29386  
Docket No. MW-29165  
92-3-90-3-22

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 17th day of September 1992.