

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29476
Docket No. MW-29029
93-3-89-3-455

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company (former Missouri Pacific Railroad Company)

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when the Carrier assigned outside forces (Henderson's Home Improvement) to construct a new scale house at Van Buren Yard, in Van Buren, Arkansas, beginning May 30, 1988 (Carrier's file 880372 MPR).

(2) The Carrier also violated Article IV of the May 17, 1968 National Agreement when it did not give the General Chairman advance written notice of its intention to contract said work.

(3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Bridge and Building Sub-department employees, J. A. LaFon, A. L. Howell, J. C. Boyer, C. W. Creekmore, J. W. Penrod, J. H. Duggin and G. J. Durst shall each be allowed pay at their respective rates for an equal proportionate share of the total number of man-hours expended by outside forces performing the work identified in Part (1) above."

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 were waived right of appearance at hearing thereon.

This Claim concerns the Carrier's use of contractor forces to construct a scale house, as well as the Carrier's failure to provide advance notice to the Organization.

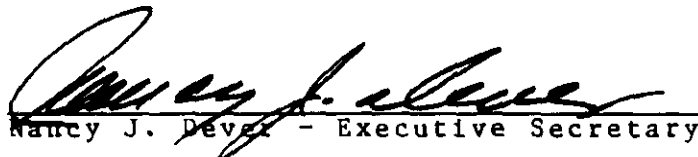
Particularly as to long-established practice and the Organization's previous failure to protest, this dispute is parallel to that reviewed in Third Division Award 29474, which in turn relied on Third Division Award 28849. Those Awards directed the Carrier to provide notice to the Organization, without sustaining the monetary portion of the Claims. Since the dispute here under review was initiated in 1988, well before the issuance of Award 28849, no purpose is served in repeating the direction to the Carrier.

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 21st day of January 1993.