

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30164
Docket No. MW-30192
94-3-91-3-638

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Union Pacific Railroad Company
(formerly 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 an outside concern (Tweedy Contractors, Inc.) to perform brush cutting work along the right of way between Garnett, Kansas and Osawatomie, Kansas on August 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31, 1990 (Carrier's File 910031 MPR).
- (2) As a consequence of the aforesaid violation, Foremen T. Banks and T. W. Cox, and Trackmen H. D. Brooks, D. T. Westerman, J. A. Reed, R. D. Abernathy, J. D. Farren, and M. E. Zimmerman shall each be allowed eighty (80) hours' pay at their respective pro rata straight time rates of pay and eighty-eight (88) hours' pay at their respective time and one-half overtime rates of pay."

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 employee 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 the dates and at the locations set forth in the claim, the Carrier contracted out to Tweedy Contractors, Inc., the work of cutting brush, weeds, and trees along with chemical treatment of all stumps within the cutting areas. This claim followed.

For the reasons set forth in Third Division Award 30162, this claim shall be sustained. For reasons further stated in that Award, because Claimants were working (or were on paid vacation) on the dates set forth in the claim, no affirmative relief shall be granted.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Linda Woods
Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 26th day of April 1994.