

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 30165  
Docket No. MW-30194  
94-3-91-3-641

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

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

1. The Agreement was violated when the Carrier assigned outside forces (American Fence Company) to perform fence work, i.e., straighten bent poles, move existing fence and two (2) gates and repairing damaged link fence, at the Store Department Storage Yard, Pocatello, Idaho on July 30, 1990 (System File S-369/900641).
2. The Agreement was further violated when the Carrier did not afford the General Chairman a meeting to discuss the work referred to in Part (1) above prior to the contracting out of said work as contemplated by Rule 52(a).
3. As a consequence of the violations referred to in Parts (1) and/or (2) above, Carpenters R. R. Olsen and W. S. Wallace shall each be allowed eight (8) hours of pay at the first class carpenter's straight time rate."

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.

This dispute arises out of the Carrier's assignment of outside forces on the claimed dates to perform the work of repairing a damaged chain link fence, including relocation of two gates therein, which work was located at the Store Department Storage Yard at Pocatello, Idaho.

The ability of this Carrier to contract out fence construction work has been upheld in Third Division Awards 29393, 28789, 28558, 30004, 30007, and 30008. Given the practice established on the property for this kind of contracting out, we cannot say that those Awards are palpably erroneous. In the interests of stability, those Awards shall therefore be followed. Third Division Award 29916 does not change the result. That Award is non-precedential by its terms ("Finally, in view of the peculiarly convoluted fact pattern and unique evidentiary problems presented in this case, the Board's Findings and Award are restricted to the instant case.").

A W A R D

Claim denied.

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.