

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31229
Docket No. MW-30882
95-3-92-3-723

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (former
(Seaboard Coast Line Railroad Company)

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

- (1) The Carrier violated the Agreement when it assigned outside forces (C&S Salvage Company, Inc.) to perform Maintenance of Way work (dismantling tracks) between Timmonsville, South Carolina and Florence, South Carolina on the Orangeburg Subdivision of the Florence Division beginning on Monday, April 22, 1991 and continuing [System File 91-117/12 (91-1227) SSY].
- (2) The Carrier also violated Rule 2, Section 1 when it failed to confer with the General Chairman and reach an understanding prior to contracting out the work in question.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Foreman C. D. Polk and Trackmen J. L. O'Banner, E. L. Goodwin, C. Mumford, Jr. and B. D. Moses shall each be allowed pay at their respective straight time and time and on-half rates for an equal proportionate share of the total number of man-hours expended by the contractor's forces performing the subject work."

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 April 22, 1991, the Carrier hired an outside contractor to perform the dismantling and removal of tracks between Timmonsville and Florence, South Carolina.

The Organization took exception to the use of an outside contractor and filed the instant claim contending that work of this nature has been customarily, historically, and traditionally assigned to Carrier's Maintenance of Way personnel. Furthermore, the Organization argued that the Carrier did not offer the General Chairman the opportunity to discuss said work before its commencement.

The Carrier denied the claim contending that the trackage in question was abandoned, and therefore, the work involved on it is not reserved exclusively to Maintenance of Way employees.

This Board reviewed the record in this case and we find that this claim is identical to the claim filed in Docket MW-30775. The parties are identical in that case and the subcontracted work is the same as in this case. It appears that this case was a duplicate filing by another General Chairman.

On July 26, 1995, the Board issued Third Division Award 30982 in Docket MW-30775 sustaining the claim. Since the facts of that case are identical to the facts of this case, our only appropriate action is to dismiss this claim.

AWARD

Claim dismissed.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of November 1995.