

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 31274
Docket No. MW-30004
95-3-91-3-400

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 Employes
(
(Union Pacific Railroad Company (former
(Missouri Pacific Railroad Company)

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

- (1) The Carrier violated the Agreement when, on March 12, 13, 14, 15 and 16, 1990, it assigned an outside contractor (Marlatt Contracting) to install ties, rails and move switches in the Atchison, Kansas Yard (Carrier's File 900454 MPR).
- (2) Furloughed Omaha Division Machine Operators K. D. Eichelberger and M. L. Fitzgerald shall each be allowed eight (8) hours per day at their straight time rate of pay, any overtime and any additional expenses incurred for March 12, 13, 14, 15 and 16, 1990."

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.

By noticed dated February 23, 1990, the Carrier advised the Organization of its intent to solicit bids for relocating switches and track in the Atchison Yard and further advised the Organization to contact the Carrier in the event the Organization desired a conference. Conference was held on March 9, 1990, without resolution. By letter dated March 14, 1990, the Organization confirmed its objection to the subcontracting out of the work. The work was performed by a contractor on March 12, 13, 14, 15 and 16, 1990.

The record sufficiently establishes that in the past the Carrier has contracted out similar work which has been acquiesced to by the Organization. Under the circumstances, the claim will be denied.

AWARD

Claim denied.

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 19th day of January 1996.