

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISIONAward No. 31275  
Docket No. MW-30028  
95-3-91-3-428

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 it assigned an outside contractor (Young Construction) to remove and replace crossties, rail and ballast on the main line and/or elevator tracks at various road crossings (Mile Post locations 547.8, 552.9, 557.9, 608.2 and 620.1) on the Lenora Branch in the vicinity of Portis, Harlan and Gaylord, Kansas on April 5, 6, 9 and 10, 1990 (Carrier's File 900506 MPR).
- (2) As a consequence of the violations referred to in Part (1) above, Omaha Division Machine Operator J. L. Hardenberger shall be allowed thirty-two (32) hours' pay at his applicable straight time rate, for the work performed by the contractor 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 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 notice dated March 5, 1990, the Carrier informed the Organization:

"... of the intention to solicit bids to contract the following work:

Place: Lenora Branch

Specific Work: Crossing work at following  
locations - MP 547.8, 552.9,  
557.9, 608.2 & 620.1

\* \* \*

In the event you desire a conference in connection with this notice, all follow up contacts should be with the Labor Relations Department."

Conference was held between the parties on March 9, 1990, without resolution. By letter dated March 14, 1990, the Organization confirmed its objection to the contracting out of the work. As set forth in the claim, the work was performed by an outside contractor on April 5, 6, 9 and 10, 1990.

As demonstrated by the correspondence on the property, the work performed by the contractor involved the use of a backhoe and a dump truck. The record further 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.

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NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Dated at Chicago, Illinois, this 19th day of January 1996.