

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31286
Docket No. MW-30410
95-3-92-3-152

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 (Western Engineering) to pile, load, transport, unload and grade fill material within the North Platte, Nebraska Yard beginning November 26, 1990 and continuing (System File S-426/910174).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with proper advance notice of its intention to contract out said work and failed to make a good-faith effort to reach an understanding concerning said contracting as required by Rule 52(a).
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Eastern District Roadway Equipment Operators R. L. Wehrer, D. K. Melius and T. L. Reikofski and Nebraska Division Group 15 Truck Drivers D. M. Swartwood, L. H. Wilson, K. L. Williams and D. B. Wilken shall each be allowed pay at their respective rates of pay for an equal proportionate share of the total number of man-hours expended by the outside forces commencing November 26, 1990 and continuing until the violation ceases."

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 October 1, 1990, The Carrier informed the Organization of its "... intent to solicit bids to cover the construction grading, embankment clearing and grubbing, and installation of C.M.P. pipe culverts in connection with the Diesel Shop track rearrangement at North Platte, Nebraska." By letter dated October 11, 1990, the Organization objected to the Carrier's proposed actions and requested the scheduling of a conference. Conference was held on November 8, 1990, without resolution. A contractor commenced performing the work on November 26, 1990.

The Carrier's ability to contract out the kind of work involved in this dispute has been resolved on the property. See e.g., Third Division Awards 27010, 30193. Those Awards are not palpably erroneous and shall be followed.

Notwithstanding the Organization's claim that it did not receive advance notice of the Carrier's intent, as set forth above, the record demonstrates otherwise.

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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By Order of Third Division

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