

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32628
Docket No. MW-31271
98-3-93-3-290**

The Third Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Union Pacific Railroad Company (former Missouri
(Pacific Railroad)**

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Oberkramer) to remove catwalks and concrete forms from between tracks at the old piggy back facility, Sarpy Yard, Mile Post 2.8 and transported said materials to the DeSoto Sub and placed them along the right of way on February 17, 1992 (Carrier's File 920330 MPR).**
- (2) The Carrier also violated Article IV of the May 17, 1968 National Agreement when it failed to furnish the General Chairman with proper advance written notice of its intention to contract out said work.**
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Foreman D. E. Renois, Machine Operators E. A. Nanney, S. D. Ackman, T. J. Moore and Trackmen Drivers M. Williams, T. B. Magruder, C. Luther and R. E. Taylor shall each be allowed ten (10) hours' pay at their respective overtime rates.”**

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 were given due notice of hearing thereon.

The instant claims involve the subcontracting of certain work performed on February 17, 1992. The claims are premised on the alleged failure of Carrier to notify the General Chairman of its intent to subcontract the work in question. The record reveals, however, that by letter dated January 7, 1992, Carrier provided such notice and advised the General Chairman to contact the Labor Relations Department in the event the Organization desired a conference in connection with the notice. A review of the record reveals that the work was not performed on Carrier property, nor was it performed at the Carrier's behest. Accordingly, the claim must 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 23rd day of June 1998.