

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 38196
Docket No. MW-39117
07-3-05-3-590

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 Division -
(IBT Rail Conference
(National Railroad Passenger Corporation (Amtrak)

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it assigned outside forces (Swanson Railroad Contractors and Railtech Railroad Contractors) to perform Maintenance of Way Track Sub-Department work (remove/build/install switch panels, install ties, make boutet welds, install rail and related work) in the Chicago Yards on dates beginning April 21, 2004 and continuing through August 27, 2004, instead of Track Department employees (System File BMWE-512, 513, 514, 515 and 516 NRP).
- (2) The Agreement was further violated when the Carrier failed to give the General Chairman proper advance written notice of its plans to contract out said work or make a good-faith attempt to reach an understanding concerning said contracting as required by Rule 24.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, all Track Department employees with an active employment relationship during the above-referenced period shall now be compensated at their applicable rates of pay for an equal share of the total man-hours expended by the outside forces in the performance of the aforesaid work beginning on April 21, 2004 and continuing through August 27, 2004.”

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.

By letters dated February 6 and 11, 2004, the Carrier notified the Organization of its intent to use outside forces for work in the Chicago Yards. As a result, this claim followed.

This dispute arises out of the same transaction and claim decided by the Board in Third Division Award 38195. For reasons set forth in that award, this 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 18th day of May 2007.