

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 38383
Docket No. MW-37627
08-3-NRAB-00003-020751
(02-3-751)

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(BNSF Railway Company (former Burlington
(Northern 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 to perform Maintenance of Way and Structures Department work (form and pour concrete pads and fuel containment collection system and other general construction) at Galesburg, Illinois beginning on April 6, 1998 and continuing instead of Messrs. M. Wilkins, L. Tracy, D. Brackett and B. Lahart. (System File C-98-C100-103, MWA 98-08-7AD-BNR)
- (2) The Agreement was violated when the Carrier assigned outside forces to perform Maintenance of Way and Structures Department work (weld pipe, fabricate steel framework, storm sewer construction, piping and related work) at Galesburg, Illinois beginning on April 8, 1998 and continuing instead of Messrs. L. Friend, D. Foutch, W. Baker, J. Murphy and D. Bertlesen. (System File C-98-C100-102, MWA 98-08-7AC.)
- (3) The Agreement was further violated when the Carrier failed to provide the General Chairman with proper advance notice of its intent to contract out said work or make a good-faith effort

to reduce the incidence of subcontracting and increase the use of its Maintenance of Way forces as required by Rule 55 and Appendix Y.

- (4) As a consequence of the violations referred to in Parts (1) and/or (3) above, Claimants M. Wilkins, L. Tracy, D. Brackett and B. Lahart shall now each be compensated for eight (8) hours' pay at their respective straight time rates of pay for each day the outside forces performed the aforesaid work beginning April 6, 1998 and continuing.
- (5) As a consequence of the violations referred to in Parts (2) and (3) above, Claimants L. Friend, D. Foutch, W. Baker, J. Murphy and D. Bertlesen shall now each be compensated for eight (8) hours' pay at their respective straight time rates of pay for each day the outside forces performed the aforesaid work beginning April 8, 1998 and continuing."

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 letter dated February 4, 1998, the Carrier notified the Organization of its intent to contract out work on the fueling facility at Galesburg, Illinois. At the request of the Organization, the parties met in conference to discuss the proposed

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project. On May 13, 1998 the Organization filed two claims, each involving different portions of the project at issue. The claim was denied on July 9, 1998, and subsequently progressed up and to the highest Carrier Officer authorized to handle such matters, including conference on the property. By agreement of the parties, the claims were consolidated and submitted to the Board for resolution.

The evidence on this record clearly shows that the Carrier gave proper notice to the Organization regarding its intention to contract out the work at issue. We find that the Organization failed to meet its burden of persuasion that the contracting out of this work was in any way violative of the Agreement. Accordingly the instant 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 21st day of December 2007.