

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 39274
Docket No. MW-37905
08-3-NRAB-00003-030250
(03-3-250)

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

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (Dan R. Dalton, Inc.) to perform Maintenance of Way and Structures Department work (bridge straightening) at Bridge 146.94 on the Seattle Subdivision on March 21, 2002 and continuing through March 28, 2002 instead of Northwestern District Steel Erection employees R. R. McDonald, J. L. Geiss and S. E. Burgus (System File C-0252-106/1319740).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with a proper advance written notice of its intention to contract out said work and failed to make a good-faith effort to reduce the incidence of contracting out scope covered work and increase the use of its Maintenance of Way forces as required by Rule 52 and the December 11, 1981 Letter of Understanding.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Claimants R. R. McDonald, J. L. Geiss and S. E. Burgus shall now ‘. . . each be allowed at their applicable rate a proportionate share of the total hours, both straight and overtime hours worked by the contractor doing the work claimed as compensation for loss of work opportunity suffered when the Carrier failed to assign Claimants the work of straightening

Form 1
Page 2

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Bridge 146.94 on the Seattle Subdivision in the Northwestern District.”

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.

This is the same dispute, but at a different location, as discussed in Third Division Award 39273. For reasons stated in that Award, this claim shall also 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 July 2008.