

Award No. 3061

Docket No. MW-3008

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Luther W. Youngdahl, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

MISSOURI PACIFIC LINES

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood:

- (1) That the Carrier violated Agreement in effect by contracting to outsiders certain work on Building No. 10, Sebastian, Texas and Building No. 81, Harlingen, Texas;
- (2) That each member of B&B gang, D. Fisher, Foreman, and mechanics J. B. Lamp, D. R. Perry, J. W. Morris, L. R. Ryan, R. Guilerez, Stanley Socldo, A. L. Alexander and O. J. Martin shall be paid 8 hours at time and one-half rate on November 25, 1943, Thanksgiving Day, on which day these employes were laid off while outside contractors performed service on the aforementioned buildings.

EMPLOYEES' STATEMENT OF FACTS: Certain work in connection with manitenance of building No. 10, Sebastian, Texas, and building No. 81, Harlingen, Texas, had been let to and was being performed by a contractor and, thus performed by employes who had no seniority rights in the bridge and building department on the railroad.

On November 25, 1943, Thanksgiving Day, the claimants, regular employes in the bridge and building department, were laid off and lost time while the outsiders, employes of the contractor, were working in the performance of work to which the claimants were justly entitled.

The agreement in effect between the Carrier and the Brotherhood is by reference a part of this Statement of Facts.

POSITION OF EMPLOYES: Rule 1, Scope, of agreement in effect between the Missouri Pacific Lines and the Brotherhood of Maintenance of Way Employees reads:

"These rules govern the hours of service and working conditions of al employes herein named in the Maintenance of Way Department and sub-departments thereof (not including supervisory forces above the rank of foremen) as follows:

(a) Bridge and Building Department:

Foremen

Assistant Foremen

Water Service Foremen, Assistant Foremen,
Repairmen, Helpers, Laborers and Pumpers

Motor Car Repairmen and Helpers

Mechanics (carpenters and painters) helpers
and laborers.

in this case are entitled to eight hours at the time and one-half rate on November 25, 1943 (Thanksgiving Day) therefore, it is the position of the Carrier that the contention of the Employees should be dismissed and the claim, accordingly, denied.

OPINION OF BOARD: This is a companion case to Docket MW-2922. As far as the rights of the parties are concerned, the same principle is involved here as there, though there is a slight difference in the facts involved.

For the reasons there stated we hold that Carrier violated the Agreement in assigning the work here involved to an outside contractor. See Awards 2812, 2819, 3060. Compare Awards 2701, 1453.

Only one day is involved in this claim: viz, Thanksgiving Day, November 25, 1943. The record shows that on November 25, the contractor worked at Harlingen: 1 Carpenter and 1 Helper—4 hours each and on the same day the contractor worked at Sebastian 2 Carpenters and 1 Laborer, 8 hours each. Recovery should be limited to the actual time lost on that day and the award apportioned to employees in order of seniority.

It appears that no authorization has been received from employees R. Guilerez and Stanley Soeldo. The Board is without authority to consider their claim.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier violated the Agreement.

AWARD

Claim sustained in the amount specified in the Opinion except claim of employees R. Guilerez and Stanley Soeldo not considered because no authorization has been received from them.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 21st day of December, 1945.