

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

John H. Dorsey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY OF TEXAS

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

(1) The Carrier violated the effective Agreement when, in August of 1957, it assigned the work of installing drainage pipes and/or culverts at Eddy, Texas to a General Contractor whose employees hold no seniority rights under the provisions of this Agreement;

(2) Each employe holding seniority in the Bridge and Building Department on Seniority District No. 5 be allowed pay at his respective straight time rate for an equal proportionate share of the total man hours consumed by the contractor's forces in performing the work referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: During August of 1957, all of the work of installing concrete drainage pipes and/or culverts, except applying mortar to the joints of the pipes, on the passing track extension at Eddy, Texas, was assigned to and performed by a General Contractor.

The work was of the character that had been usually and traditionally performed by Bridge and Building Department employes, using equipment provided by the Carrier.

The employes holding seniority in the Bridge and Building Department on Seniority District No. 5, where the work was performed, were available, fully qualified, and could have efficiently performed the work.

The Agreement violation was protested and the instant claim was filed in behalf of the Claimants. The claim was handled in the usual manner on the property and declined at all stages of the appeals procedure.

The Agreement in effect between the two parties to this dispute dated September 1, 1949, together with supplements, amendments, and interpretations thereto, is by reference made a part of this Statement of Facts.

(Exhibits not reproduced.)

OPINION OF BOARD: This case was consolidated for purposes of briefing and Panel Discussion with Docket No. 10722 in which we have this date issued Award No. 11499. The issue herein presented relative to compliance with Article V, 1 (a) of the August 21, 1954 National Agreement is the same as the issue resolved in Award No. 11499.

For the reasons stated in Award No. 11499, which are incorporated herein by reference thereto, we will dismiss the 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 the claim, as presented, does not satisfy the requirements of Article V, 1. (a) of the National Agreement of August 21, 1954.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of June 1963.