

**NATIONAL RAILROAD ADJUSTMENT BOARD****THIRD DIVISION****(Supplemental)**

Edward A. Lynch, Referee

**PARTIES TO DISPUTE:****BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES  
LOUISVILLE AND NASHVILLE RAILROAD COMPANY**

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

(1) The Carrier violated the Agreement when it assigned to forces outside the scope of this agreement the work of "cleaning the track structure and providing ditches in Cumberland Mountain Tunnel near Cowan, Tennessee."

[Carrier's file No. E-201-6]

(2) Foreman F. P. Rogers and Messrs. T. K. Darnell, W. W. Stevens, L. H. Blizzard, J. F. Brazelton, C. E. Hammons and R. L. Bryant be allowed pay at their respective straight-time rates for an equal proportionate share of the total number of man hours consumed by outside forces in performing the work referred to in Part (1) of this claim.

**EMPLOYEES' STATEMENT OF FACTS:** The claimants have established and hold seniority in their respective ranks within the Bridge and Building Sub-department on the Chattanooga Division. With the exception of Claimant F. P. Rogers, who was working as a carpenter in the B&B gang which was assigned to work in the subject tunnel in conjunction with the contractor's forces, all of the claimants were furloughed and out of service during the period here involved.

On June 7, 8, 9, 14, 15, 16, 17, 18, 21, 22 and 23, 1965, the Carrier assigned the work of cleaning the track structure and of cleaning and widening the ditches on both sides of the track in the Cumberland Mountain Tunnel near Cowan, Tennessee to the Oman Construction Company. Said work consisted mainly of removing rock from the walls of the tunnel by boring holes therein with jack hammers, placing dynamite charges in the holes and then detonating same. An endloader was then used to load the rock that had been blasted from the tunnel walls, as well as other accumulated waste materials, on dump trucks (2) for removal from the tunnel.

The Carrier assigned and used one of its B&B gangs to work in conjunction with the contractor's forces in the performance of the aforesaid work.

Dear Sir:

Your letter of April 19, file 1-23, relative to claim on account of the Oman Construction Company performing work in the tunnel at Cumberland Mountain.

We are agreeable to a ninety day extension.

Yours truly,

/s/ W. S. Scholl  
Director of Personnel"

\* \* \* \* \*

Nothing further was heard about the matter until their letter of September 14, 1966, advising that the employees intended to file an ex parte submission in the dispute.

The working rules agreement between Carrier and its Maintenance of Way Employees, effective May 1, 1960, is on file with the Board and by reference is made a part of this submission.

**OPINION OF BOARD:** A long line of Awards—15763 being the most recent—involving these same parties and issue, have denied the Organization's claims.

We will follow those Awards and deny the claim now before us.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreement was not violated.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of November 1967.

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