

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19254
Docket Number MW-19323

Robert M. O'Brien, Referee

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employes
(Chicago and North Western Railway Company

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

(1) The Carrier violated the Agreement when, without prior notice to General Chairman P. J. McAndrews as required by Article IV of the May 17, 1968 National Agreement, it assigned the work of installing track ties between Wheaton and West Chicago, Illinois on Sub-division No. 1 of the Galena Division to outside forces (System File 81-1-193).

(2) The claimants* each be allowed pay ** at their respective rates of pay 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) hereof.

* The claimants are:

Maintenance Gang Foremen

T. Timm
B. Spicer

J. D. Dean
L. D. Dean

Section Foremen

J. Ramirez
J. V. Eads

Assistant Foremen Truck Drivers

B. Parra
R. Abeed

Assistant Foreman

L. Zamudio

Machine Operators

R. Wohlrabe
R. Hernandez
C. Acosta
E. Feirstein
L. R. Gonzales
M. Diaz

C. C. Kadau
J. Zarati
G. Buchikas
M. Blanco
H. M. Romero
R. A. Youngs

Section Laborers

A. Serna
J. L. Aguado
J. M. Bernal
R. C. Carter
P. R. Alonzo
F. V. Espino
C. Espino

**(The claim contemplates that all service performed by said outside forces during straight-time hours will be allocated to the claimants on the basis of the claimants' straight time rates and that all service performed by said outside forces during the claimants' overtime hours should be allocated to the claimants on the basis of the claimants' over-time rates).

(3) The Carrier shall also pay the claimants six percent (6%) interest per annum on the monetary allowances accruing from the initial claim date until paid.

OPINION OF BOARD: The Carrier contracted with the Royce Kershaw Company for the performance of tie renewal work with their own equipment and operators, between Wheaton and West Chicago, Illinois from July 23, 1969 to August 15, 1969. The contract crew worked in conjunction with employees of Carrier's Track Department.

The Petitioner contends that the Carrier violated Article IV of the May 17, 1968 National Agreement when it failed to notify the General Chairman of its plans to contract out the aforementioned tie renewal work.

We are of the opinion that tie renewal work is work embraced within the scope of Petitioner's applicable Agreement. Therefore, it was incumbent on Carrier to comply with the provisions of Article IV before contracting out the scope covered work to outside forces. When Carrier failed to give advance notice to the General Chairman of its plans to contract out the work involved, it violated the clear and unambiguous provisions of Article IV of the May 17, 1968 National Agreement.

However, we will adhere to those awards holding that since Claimants suffered no pecuniary loss we will deny Part 2 of the claim. See Awards 18305, 18306, 18687, 18860 and others.

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;

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

That the Agreement was violated in accordance with the Opinion.

A W A R D

Part (1) of the claim sustained; Part (2) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 31st day of May 1972.