

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26376
Docket Number MW-25957

Eckehard Muessig, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Denver and Rio Grande Western Railroad Company

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

(1) The Carrier violated the Agreement when it assigned outside forces to perform subgrade work between Rubideau and Huff on North Fork Branch beginning on December 19, 1982 (System File D-6-83/MW-20-83).

(2) Because of the aforesaid violation, Road Equipment Subdepartment employes K. E. Ault, S. Johnson, M. Holtrop, C. Mings, L. Bartlett, D. E. Lamarine, T. G. Mendieta, E. D. Tellin, R. Lee, B. Averill, K. A. Dye, G. L. Dodson, D. E. Fuqua, K. D. Nelson, I. B. Bray, W. J. Williams, C. P. LaBrahe, C. K. Johnson, S. R. Berkenkotter, L. R. Chavez, D. J. Reader, Bill Ussery, Sr., J. L. Gentile, D. E. Jacox and C. R. Crane shall each be allowed pay at their respective rates for an equal proportionate share of the man-hours expended by outside forces in the performance of Road Equipment Subdepartment work and Track Subdepartment employes Ramino Prieto, D. P. Simineo, R. R. Gerzetic, A. L. Crawford, J. L. Prock, B. E. Maki, D. R. Parmenter, K. L. Bateman and B. G. Kirkwood shall each be allowed pay at their respective rates for an equal proportionate share of the man-hours expended by outside forces in the performance of Track Subdepartment work beginning on December 19, 1982."

OPINION OF BOARD: This is a dispute that arose after the Carrier assigned outside forces to perform grade work beginning on December 19, 1982.

The Board notes that the key issues and the relevant situation leading to this Claim are identical to those resolved in previous Awards covered by identical agreement language and issues. (See Third Division Awards Nos. 25677, 25141 and 25103).

For the reasons stated in our Award No. 26375, and the prior Awards involving the same issues, the Claim is sustained as follows in the same manner as was done in Third Division Award 25677:

"Claim for each named Claimant is sustained for wage loss suffered, i.e., the named Claimant's proportionate share of time when added to his straight-time compensable time for period involved shall be limited so as not to exceed the total of his normal compensable time."

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 violated.

A W A R D

Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1987.