

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26479
Docket Number MW-26295

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(Consolidated Rail Corporation

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

(1) The Carrier violated the Agreement when it assigned outside forces to grade roads on the Johnstown, Pennsylvania Subdivision September 13, 1983 through September 19, 1983 (System Docket CR-574).

(2) As a consequence of the aforesaid violation, Class 2 Machine Operator R. J. Ickes shall be allowed forty (40) hours of pay at the Class 2 machine operator's straight time rate."

OPINION OF BOARD: This Board has been presented with a number of Claims involving the subcontracting of Maintenance of Way work to outside forces. In reviewing and rendering Third Division Award No. 26314 (with Dissent by Carrier Members), we explained in detail the Board's position on use of outside forces. The rationale that applied to that case shall also be applied in this instance. We see no reason to repeat our presentation from Third Division Award 26314. We will apply the same concept of 50 percent liability for furloughed claimants in this case as we did in Third Division Award No. 26314.

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 Agreement was violated.

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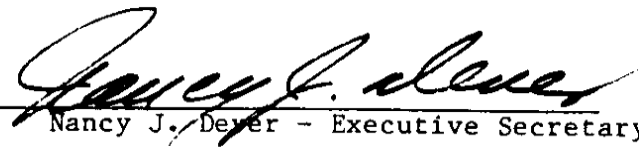
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Claim sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 9th day of September 1987.