

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 26538
Docket Number MW-25883

Rodney E. Dennis, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(The Atchison, Topeka and Santa Fe Railway Company

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

(1) The Carrier violated the Agreement when it assigned excavating and filling work in connection with a bridge construction project at Milepost 444.4 on the Illinois Division September 20, 1982 through October 6, 1982 to outside forces (System File 210-10-831).

(2) The Carrier also violated Appendix No. 8 (Article IV of the May 17, 1968 National Agreement) when it did not give the General Chairman advance written notice of its intention to contract said work.

(3) As a consequence of the aforesaid violations, Group 5 Machine Operators David H. Ramsey, John D. Long, Bobby D. Buck, Paul G. LeBlanc, Lawrence R. Foose, Robert D. Chowning, Jesse L. Alderman, Lindon E. Lawson, James C. Scott, Richard D. Mayo, Roy B. Barnhart, Roland G. Davis, Gary W. Jones, Donald L. Dummings, Terry L. Laney, Weldon J. White, James R. Cody, Gordon L. Watts, Ronnie D. Morgan, Bruce E. Beaman, Mark A. Spain, J. B. Schell, Robert F. Campbell, Charles A. Reeves, Ty R. Gibson, Kelly C. Platz, Lonnie L. Salter, Loren R. Standley, George J. Penrod, Wm. Leroy Watts, Gary B. Carlile shall each be allowed pay at their respective rates for an equal proportionate share of the total number of man-hours expended by outside forces in performing the work referred to in Part (1) hereof during the claim period."

OPINION OF BOARD: On August 13, 1982, a bridge collapsed on Carrier's main line as a result of high water. Carrier rented five earth moving machines with an operator from a local contractor to help in the rebuilding of the bridge. Carrier also used its one available machine and operator. Contractor machines and men were used from August 25 to October 6, 1982. During this period, all Carrier Group 5 Machine Operators were fully employed. On November 19, 1982, the General Chairman presented a Claim on behalf of 31 Claimants. He contended that the work was improperly assigned to outside men and machines in violation of the Subcontract Rule of the Agreement. The Claim reads as follows:

"We present for your consideration a claim for
Group 5 Operators on the Eastern lines for work
done by contractor forces."

Carrier denied the Claim on the basis that it was vague, indefinite,

and did not specify what is claimed on behalf of each of the thirty-one Claimants. Carrier also cited the fact that in an emergency situation, Carrier is not required to give notice of contracting out to the General Chairman.

We find no basis for a monetary award in the instant case. While Carrier was authorized to proceed under the authority of Appendix No. 8 of Article IV of the May 17, 1968, National Agreement which includes the Letter of Understanding dated September 28, 1956, sound labor relations would have been served in this instance if Carrier officials had notified the General Chairman of its intent to use outside men and machines.

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

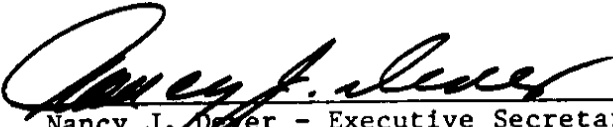
That the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 30th day of September 1987.