

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees  
(Soo Line Railroad Company)

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

(1) The Carrier violated the Agreement when it assigned Car Department employees instead of Bridge and Building Department painters to perform painting work at North Fond du Lac, Wisconsin on April 10 and 11, 1985 [System File 1 45(c,e) 4(o)/800-46-B-211].

(2) Chief Engineer W. B. Peterson failed to disallow the claim (appealed to him under date of August 28, 1985) as contractually stipulated within Agreement Rules 13-1(a) and 13-1(c).

(3) As a consequence of either or both (1) and/or (2) above,

'... 84 hours pay at the pro rata rate to be distributed proportionately among the active members of B&B Crew 602....'

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

As Third Party in Interest, the Brotherhood Railway Carmen/Division of TCU was advised of the pendency of this dispute and filed a Submission.

On April 1, 3, 4, and 11, 1985, Carrier assigned Carmen to paint the walls and ceiling of the Electric Shop at the Shop facilities in North Fond du Lac, Wisconsin. The Organization contends that B&B employees should have been used to do the painting in the Shop. A Claim was filed that was denied by Carrier and has resulted in this case before the Board. The Organization also claimed that procedural violations existed in Carrier's handling, since someone other than the officer receiving the Claim responded to it.

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Award No. 28256  
Docket No. MW-27415  
90-3-86-3-658

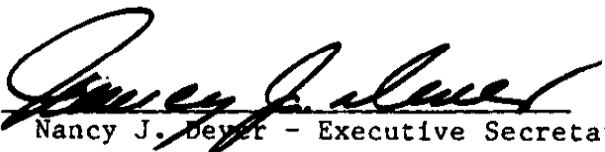
This Board has reviewed the same or similar fact pattern involving this Carrier and Organization on numerous occasions in the past. We have in those instances denied the Claim. Third Division Awards 27179, 27590, 27759, and 27762. We see no basis on the record before us at this time to do otherwise in this instance.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.