

The Third Division consisted of the regular members and in addition Referee John B. LaRocco 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 Store Department employes instead of Bridge and Building Department forces to construct a building to house a scrap sorter November 4 through November 8, 1985 (System File R229 #1498L/800-46-B-228).

(2) Furloughed Carpenter Helpers A. H. Lemer and W. Lageson shall each be allowed twenty (20) hours of pay at the carpenter's straight time rate because of the violation referred to in Part (1) hereof."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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 Parties in Interest, the Brotherhood Railway Carmen/TCU, and Transportation Communication International Union were advised of the pendency of this dispute, but chose not to file Submissions with the Division

Claimants are Carpenter Helpers in the Carrier's Bridge and Building Subdepartment. According to Claimants, during the week from November 4, 1985 to November 8, 1985, Store Department employees constructed a shed to house a scrap sorter at North Fond du Lac, Wisconsin. Claimants further asserted that the work was reserved exclusively to Bridge and Building employees under Rule 45(c). Claimants seek forty hours of pay because the Store Department employees allegedly spent forty hours building the shed.

On the other hand, the Carrier contends that a single Store Department worker simply set up a portable windbreak to shelter himself from the elements. The Carrier submits that if a more elaborate structure was built, it was accomplished without the authority or knowledge of the Carrier's Engineering Department. The Carrier acknowledged, however, that the Store Department employee may have made minor improvements to the existing windbreak.

The record herein presents the Board with several irreconcilable differences concerning the material facts. Since the record does not provide us with sufficient evidence to resolve the factual conflicts, we must dismiss this claim. See Third Division Awards 27738 and 26817.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Dever - Executive Secretary

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