

The Third Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Union Pacific Railroad Company

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

(1) The Agreement was violated when the Carrier assigned outside forces to install a multiplate culvert in the arch at Mile Post 907.34 in the vicinity of Altamont, Wyoming beginning July 29, 1986 (System File M-470/-870024).

(2) The Agreement was further violated when the Carrier did not give the General Chairman prior written notification of its plan to assign said work to outside forces.

(3) As a consequence of the violations referred to in Parts (1) and/or (2) above, furloughed B&B Carpenters R. E. Rondeau, P. C. Curby, S. J. Harrington, D. T. McIntosh and J. J. Callahan 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."

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.

This case is another in a series of cases between the parties involving work that was contracted out to the Neosho Construction Company on July 29, 1986. In the instant case, the Organization protests the fact that this outside concern performed the assembly and installation of a conduit and

the construction of concrete catch basins between Mile Posts 907 and 908 near Altamont, Wyoming. It asserts that the contractor assembled a multiplate conduit culvert and placed it in an existing tunnel, and then filled in the right-of-way to the ends of the conduit where the concrete catch basins were constructed. According to the Organization, this was work which has customarily and historically been assigned to B&B Subdepartment employees and is contractually reserved to such employees under the provisions of Rules 1, 2, 3, 4 and 8. It is the Organization's position that the Carrier violated the Agreement when, without giving the required advance written notice of its plans, it contracted out the work at issue.

Carrier does not dispute that it failed to give the required notice, but argues that the work in question falls neither within the scope of the Agreement nor does it meet the test that the employees have by tradition, custom and past practice performed such work. Carrier insists that the Agreement language and past practice permitted the contracting out of this work which, in any event, constituted only a small portion of the total project at this location.


As we read the record evidence and the arguments presented by the parties, we find the issues presented here to be identical to that seen in Third Division Award 28622. Our findings and conclusions set forth in that case are incorporated herein as if fully rewritten.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 17th day of December 1990.