

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Award No. 29559  
Docket No. MW-29005  
93-3-89-3-429

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. 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 Carrier violated the Agreement when it assigned outside forces to perform work cleaning the right-of-way of ties, tie butts and debris beginning at Mile Post 988.5 near Riverdale, Utah beginning June 7, 1988 (System File S-55/880649).

(2) As a consequence of the afore-stated violation, Claimants R. G. Martin, M. Salazar and A. Romero shall each be allowed an

'\*\*\* equal proportionate share of the man hours worked by the outside contracting force of Rail and Ties Construction Company from June 7, 1988 through this date and continuing at this time and until this violation no longer exists. Also, the aforementioned Claimants must be allowed a equal proportionate share of the man hours worked by this outside contracting force at the overtime rate of pay for any and all overtime hours worked including those of July 9, 10, 16, and 17, 1988, at their respective Track Subdepartment Group 11 and Group 17 rates of pay.'"

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 employe 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 dispute concerns the Carrier's disposal of used railroad ties to a contractor. The Organization was notified in advance of the proposed action. As part of the undertaking, the contractor was responsible for picking up the ties where they lay along with railroad right-of-way.

The Organization points out that the duties of Maintenance of Way forces includes handling and disposing of ties. Nevertheless, the right of the Carrier to dispose of its property on an "as is, where is" basis is fully established. See Third Division Awards 29561, 24280, and 10826.

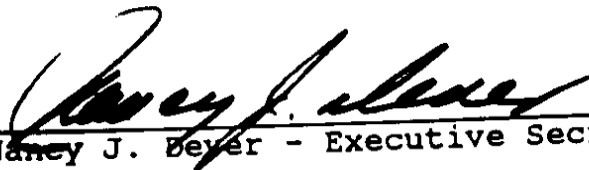
With this finding, the Board need not review the other arguments set forth by the parties as to rights and limitations of contracting of work to outside forces.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 9th day of March 1993.