

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award No. 30168

Docket No. MW-30211

94-3-91-3-660

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

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company
(formerly Missouri Pacific Railroad Company)

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

- (1) The Agreement was violated when the Carrier assigned an outside concern (Marlatt Contracting) to perform right of way brush clearing work between Mile Post 468 and 483 on the Concordia Subdivision on August 13, 14, 15, 16, 17, 20, and 21, 1990 (Carrier's File 910023 MPR).
- (2) The Agreement was further violated when the Carrier did not give the General Chairman proper advance written notice of its plan to contract out the work in question.
- (3) As consequence of the violations referred to in Part (1) and/or Part (2) above, Machine Operator J. L. Hardenberger shall be allowed pay in the amount of hours expended by the outside concern equal to eight (8) hours at his pro rata straight time rate of pay and time and one-half overtime pay for any overtime service performed by the outside concern."

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 employee 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.

On the dates and at the locations set forth in the claim, the Carrier contracted out to Marlatt Contracting the work of cutting brush, weeds, and trees from the right of way. This claim followed.

For the reasons set forth in Third Division Award 30162, this claim shall be sustained. For reasons further stated in that Award, because Claimant was working on the dates set forth in the claim, no affirmative relief shall be granted.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: Linda Woods
Linda Woods - Arbitration Assistant

Dated at Chicago, Illinois, this 26th day of April 1994.