

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31033
Docket No. MW-30325
95-3-92-3-55

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 (former
(Missouri 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 overhaul BC-28M Model 40, Burro Crane at Parson, Kansas commencing November 12, 1990 (Carrier's File 910188 MPR).
- (2) The Carrier also violated Article IV of the May 17, 1968 National Agreement when it failed to furnish the General Chairman with advance written notice of its intention to contract out said work.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, the work equipment mechanics listed below * shall 'Therefore, based on the amount of hours involved to perform said overhaul by contractors, time is being claimed by and in behalf of each claimant for payment of all wage loss suffered, at their respective time and one-half rates, for being denied said "Work Opportunity" to outside concerns.'

* T. E. Blasingame	V. L. Price
G. R. Knight	D. G. Barber
R. Buchanan	R. K. Backus
V. A. Hudson	L. B. Byrd
D. L. Wharton	R. W. Murray
D. E. Price	J. P. Koenigsfeld
D. G. Thurman	R. G. Holman
L. E. Tosh	R. M. Ussery
D. R. Vint	R. L. Goodin
T. J. Maserang	G. A. Howard

R. E. Hughes	J. L. Byrd
A. L. Harshaw, Jr.	D. R. Hill
J. R. Goodman	M. E. Thirion
R. D. McKinney	G. L. Sales
H. S. Wells	L. D. Sales
R. A. Grooms	J. Givens, Jr.
R. L. Smith	K. W. Carson
R. W. Cooper	M. Hilliard
A. D. Curtis	H. A. Cloyes"

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 October 25, 1990, the BC-28M Model 40 Burro Crane was shipped from Memphis, Tennessee to a contractor's shop in Parson, Kansas for complete overhaul. Said work was contracted out without the appropriate advance notice to the Organization. The work was performed by the contractor commencing November 12, 1990.

Third Division Award 29567 governs this dispute. That Award is not palpably erroneous and, in the interests of stability, it shall be followed.

The matter is remanded to the parties with directions, through a check of the Carrier's records, to determine the number of hours the contractor took to perform the work and to compensate Claimants (at the pro rata rate) for their proportionate share of those hours.

AWARD

Claim sustained in accordance with the Findings.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.