

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31278
Docket No. MW-30196
95-3-91-3-642

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 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 used an outside concern (Rick Franklin Corporation) to perform roadway equipment operator work of post derailment cleanup, including removing debris and grading at Castle, Oregon beginning July 13 through and including July 18, 1990 (System File S-377/900666).
- (2) The Agreement was further violated when the Carrier did not give the General Chairman advance written notice of its intention to contract out the work involved here in accordance with Rule 52.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Northwest District Roadway Equipment Operators (REO) D. W. Dacus and N. L. Milner shall each be allowed pay equal to that they would have received absent the violation of the Agreement."

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.

Without prior notice to the Organization, the Carrier utilized the services of an outside contractor (Rick Franklin) to operate certain roadway equipment as part of the clean up of a derailment at Castle, Oregon, in July, 1990.

Under the facts of this case, given the nature of the incident (a derailment), the Carrier could not give 15 days advance notice under Rule 52 of its intent to contract out the work. Third Division Award 27969. In the past the Carrier has contracted out similar work which has been acquiesced to by the Organization. Under the circumstances, the claim will be denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an Award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 19th day of January 1996.