

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31282
Docket No. MW-30350
95-3-92-3-74

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 assigned outside forces (City of Lawrence, Kansas) to protect vehicular and pedestrian traffic at Fourth and Locus Streets in Lawrence, Kansas beginning August 27, 1990 and continuing (System File S-414/910115).
- (2) The Agreement was further violated when the Carrier failed to furnish the General Chairman with advance written notice of its intention to contract out said work as required by Rule 52.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, furloughed Kansas Division Group 17 Sectionman D. D. Witt shall be allowed, at the sectionman's rate of pay, '*** an equal proportionate share of the total man-hours worked by the outside contracting force commencing with August 27, 1990 and continuing ***' until the violation ceases."

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.

In its Submission at 2, the Organization states that "[t]his dispute is identical to a dispute involving the Union and this Carrier identified as NRAB Case No. 91-3-364, Claimant D. Selbe." That case (which alleged different dates as violations as well as a different Claimant-Selbe) was decided in Third Division Award 29753 which denied the Organization's claim. That Award is not palpably in error. In the interest of stability, this claim must therefore 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.