

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Form 1

Award No. 31525
Docket No. MW-30623
96-3-92-3-180

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

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Soo Line Railroad Company (former Chicago, Milwaukee,
(St. Paul and Pacific Railroad Company)

STATEMENT OF CLAIM:

"(1) The alleged violation of the Agreement when the Carrier authorized and assigned Maintenance of Way work opportunities to an outside contractor (Railroad Salvage Associated of Milwaukee, WI) on March 29, 30, April 6, 7, 13, 14, 20, 21, 27, 28, May 4, 5, 11 and 12, 1991. (Carrier File: 8-00061, Organization File: C-12-91-C080-03)."

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.

This dispute concerns the Organization's assertion that the Carrier contracted out the clean up of debris, wood and spoiled grain within the yard limits at Milwaukee, Wisconsin. As part of the arguments made by the Carrier, the Carrier asserts that it has similarly contracted out this work in the past without protest by the Organization.

Third Division Award 30115 between the parties involved a similar dispute concerning the clean up of spilled grain and track materials. The Board denied the claim finding that "... this type of work has not by practice or tradition been customarily performed by Maintenance of Way employees."

We do not find Award 30115 to be palpably in error. For purposes of stability, that Award must be followed. On the basis of that Award, this claim shall 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 25th day of July 1996.