

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32309
Docket No. MW-31423
97-3-93-3-312**

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

**(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(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 (Prairie Construction Company) to perform B&B Subdepartment work, i.e., preparation of surface, mixing, blending, sizing and applying paint and preservatives to walls, ceiling, flooring and concrete, in connection with the remodeling project at the CTC Building/Yard and Superintendent's Office Building in North Platte, Nebraska beginning November 18, 1991 and continuing (System File S-637/920195).**
- (2) As a consequence of the violation referred to in Part (1) above, furloughed Group 5 B&B Painters B. L. Henry and R. R. Nielsen shall be compensated, at the painter's rate of pay, for an equal proportionate share of the total number of man-hours' expended by the outside forces.”**

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 were given due notice of hearing thereon.

According to the Organization's description, this dispute concerns the following:

“Beginning on November 18, 1991 and continuing, the Carrier assigned an outside contracting concern . . . to perform work preparing surfaces, mixing, blending and applying paint and preservatives to walls, ceilings, flooring and concrete in remodeling the CTC Building/Yard and Superintendent's Office Building in North Platte, Nebraska.”

The Carrier gave timely notice of the work, and a conference was held in response to the General Chairman's request. The Organization nevertheless argues the work was improperly assigned to an outside contractor.

In numerous previous instances, the contracting of painting work of this nature and scale has been endorsed following arbitral review. As an example, Third Division Award 30691 states:

“As to the painting work itself, the Carrier's right to contract such work has been reviewed and upheld in previous Awards. Among these are recent Third Division Awards 29544 and 29037. Award 29037 concluded:

‘We are forced to conclude from a review of over two hundred instances of contracting out painting, that the Carrier did not violate the Agreement. A careful review of all the Organization's arguments and evidence fails to convincingly show language, practice, or facts to prove a Carrier violation.’

The Board finds no basis to reach a different conclusion in this instance.”

Here, the Board has searched without success to find any element to distinguish this Claim from many virtually identical Claims as referenced above. Thus, this is a repeatedly settled matter, to which the Board has nothing to add.

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 13th day of November 1997.