

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 32867
Docket No. MW-32065
98-3-94-3-416**

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 Agreement was violated when the Carrier assigned outside forces (Marlatt Contracting) to perform Maintenance of Way machine operator's work (operating a 580 Backhoe and 880 Backhoe) in connection with the installation of a concrete crossing on the Old Omaha Division in the vicinity of the power plant and Mile Post 292.10 at Nearman, Kansas on April 21, 22 and 24, 1993 (Carrier's File 930563 MPR).**
- (2) The Carrier also violated Article IV of the May 17, 1968 National Agreement when it failed to furnish the General Chairman with a proper 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, Machine Operators K. D. Eichelberger and M. L. Fitzgerald shall each be allowed eight (8) hours' pay at the machine operator's straight time rate and any overtime at the machine operator's time and one-half rate for each day worked 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.

By letter dated February 5, 1993, the Carrier advised the Organization of its "... intent to solicit bids to cover all supervision, labor, equipment, materials, tools, supplies, permits and transportation required for the removal and disposal of cross ties, switch ties, and crossing timbers in connection with the Railroad's Tie Program for the program year 1993." As indicated in the Organization's letter of February 11, 1993, conference was held on that date where the Organization objected to the contracting.

By letter dated March 11, 1993, the Carrier supplemented the February 5, 1993 notice and listed locations where the work was to be performed. According to the Organization's March 22, 1993, conference was held on March 15, 1993, with the Organization continuing to object to the contracting.

The Carrier contracted the work, which was performed in this case on April 21, 22 and 24, 1993. This claim followed.

Prior notice of contracting was given by the Carrier as required by Article IV. We also find that the totality of the notices given was sufficient under that Article. For the proposition that the kind of work involved in this dispute has been contracted out in the past, see Third Division Award 29560 and Award cited therein.

This claim shall therefore be denied.

AWARD

Claim denied.

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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 21st day of October 1998.