

NATIONAL MEDIATION BOARD

PUBLIC LAW BOARD NO. 4768

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

and

BURLINGTON NORTHERN RAILWAY COMPANY

AWARD NO. 29

Carrier File No. EMWC 88-1-8

Organization File No. B-2177-1

STATEMENT OF CLAIM

1. The Agreement was violated when the Carrier assigned outside forces to repair and prepack the piers on Bridge 710 in the vicinity of Altus, Oklahoma during October 1987.

2. The Carrier also violated Rule 99 when it did not give the General Chairman 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, B&B Sub-department employees K. Derheim, B. Bedford, D. Snow, M. Cole, C. Godfrey and J. Burchfield shall each be allowed pay for two hundred fifty-three (253) hours at their respective rates.

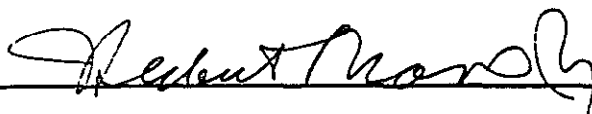
F I N D I N G S

On June 19, 1987 the Carrier served notice on the Organization of its intent to contract with the Osmose Company "for the in-place treatment and epoxy injection of concrete bridge piers on the Ft. Worth Division". The Organization requested a conference, following which, absent agreement between the parties, the Carrier proceeded with the work. This claim concerns such work performed on Bridge 710 near Altus, Oklahoma during October 1987. According to the Carrier, this is one of the bridges covered in the June 19, 1987 letter.

The Carrier established information that for more than ten years the Osmose firm had been employed by the Carrier "to perform the internal structural cement bridge repair using advance epoxy methods and technology" and that the process for "repair [of] internal cracks in concrete structures had never been performed by B&B forces". In the light of these facts, the Board has no basis determine a violation of Rule 99, which states in its concluding section that "Nothing herein shall affect the existing rights of either party in connection with contracting out."

A W A R D

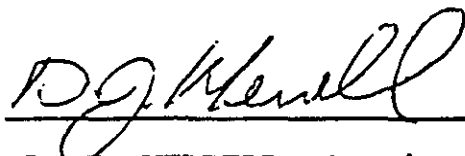
Claim denied.



HERBERT L. MARX, Jr, Chairman and Neutral Member



MARK J. SCHAPPAUGH, Employee Member



D. J. MERRELL, Carrier Member

NEW YORK, NY

DATED:

April 6, 1992