

PUBLIC LAW BOARD NO. 6553

BROTHERHOOD OF MAINTENANCE)	
OF WAY EMPLOYES)	
)	AWARD NO. 2
And)	CASE NO. 2
)	
NORFOLK SOUTHERN RAILWAY)	
COMPANY)	

STATEMENT OF CLAIM:

Claim on behalf of M. A. Sakuluk, J.J. Allen, J. W. Gerard and G. A. Wain requesting that they be paid at the B & B Plumber rate for eight hours each on November 22, 2000, in that three contractor and one Mechanical Department employees repaired a 4" water line break near 4 Yard Building at Conway Yard in Conway, Pennsylvania.

OPINION OF BOARD:

Public Law Board No. 6553, upon the whole record and all the evidence, finds that the parties herein are Carrier and Employes within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute herein.

This claim arose following the Carrier's use of a contractor and Mechanical Department employees represented by Sheet Metal Workers International Association to repair a break in a four inch water line to a Yard Office in the Conway, Pennsylvania terminal on November 22, 2000. The Organization contends that employees from the BMWE-represented Plumber classification should have performed the work and were entitled to advance notice. Claimants were regularly assigned as Plumbers on the Pittsburgh Division of the Northern region at the time the disputed work was performed.

For reasons discussed in Award No. 1 of this Board, we find that the provisions of the May 6, 1999 Memorandum of Agreement establishing the Plumber job classification triggered the notice requirements set forth under Appendix F. The claimed work was colorably within the Scope of the agreement and therefore Carrier violated the contract when it failed to meet its notice obligations under Appendix F.

Carrier contended that the work in question has historically been performed on its territory by outside vendors and shop craft employees. In addition, it asserted during handling on the property that sufficient employees and equipment were not available to timely perform the work. However, those are just the sorts of matters

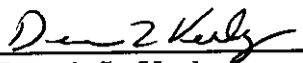
that should have been discussed by the parties in accordance with the provisions of Appendix F. All that is required in terms of notice is "in the event a carrier plans to contract out work within the scope of the applicable schedule agreement, the Carrier shall notify the General Chairman of the organization involved in writing as far in advance of the date of the contracting transaction as is practicable and in any events not less than 15 days prior thereto." The lack of notice in this case effectively frustrated the ability of the parties to address many of the questions raised with regard to the allocation of work under the new implementing agreement and requires a sustaining award.

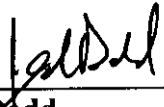
With respect to the remedy question, given the fact that the parties are coming off the May 6, 1999 implementing agreement, and as we discussed in Award No. 1, we shall not award monetary compensation for the fully employed Claimants in this case. However, the parties are advised that should the Carrier disregard its notice obligations in the future, a different outcome is to be expected.

AWARD

Claim sustained in accordance with the opinion.


ANN S. KENIS, Neutral Member

 - SEE
Dennis L. Kerby COMMENTS
Carrier Member FOR
Award No. 1


Jed Dodd
Employee Member

Dated February 18, 2003.