

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 11

Case No. 11

Referee Fred Blackwell

Carrier Member: J. H. Burton

Labor Member: S. V. Powers

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

(1) The Agreement was violated when outside forces were used to pave (blacktop) the Manchester Avenue grade crossing at Middletown, Ohio on October 3, 1985 (System Docket CR-2089).

(2) The Agreement was further violated when the Carrier did not give the General Chairman prior written notification of its plan to assign said work to outside forces.

(3) Because of the aforesaid violations, Messrs. C. J. Calloway, G. S. Cost, P. R. Berry, J. Kellems, M. Keefe, R. L. Cassidy and L. A. Robinson shall each be allowed eight (8) hours of pay at their respective straight time rates.

FINDINGS:

Upon the whole record and all the evidence, and after hearing on December 5, 1988, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

OPINION

This is a contracting out dispute under the Scope Rule of the Conrail-MofWE Schedule Agreement, effective February 1, 1982.

The dispute arises from claims by seven (7) furloughed Employees in the classification of Trackmen on the Carrier's Columbus Division, who allege that the Carrier violated the applicable Agreement when it engaged an outside contractor (Hendy Construction Company) on October 3, 1985, to pave (blacktop) the Manchester Avenue grade crossing at Middletown, Ohio, on the Carrier's Columbus to Cincinnati Main Line. The Claimants further allege that the Agreement was also violated when the Carrier did not give the General Chairman prior written notice of its plan to assign the subject work to an outside contractor.

The requested remedy is for an award which directs the Carrier to pay each Claimant eight (8) hours pay at the straight rate to compensate them for the Trackman's work improperly performed by the outside contractor.

\* \* \* \* \*

After due study of the foregoing and of the whole record, inclusive of the submissions<sup>1</sup> presented by the parties in support of their respective positions in the case, the Board concludes and finds that the facts and issues presented in this case parallel those presented in the disputes disposed of by this Board in Award No. 9, Case No. 9, and Award No. 10, Case No. 10. In both Awards claims for payment of compensation to furloughees were sustained.

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<sup>1</sup> The prior authorities submitted by the parties have been carefully studied and analyzed in making the ultimate conclusions and findings in this case.

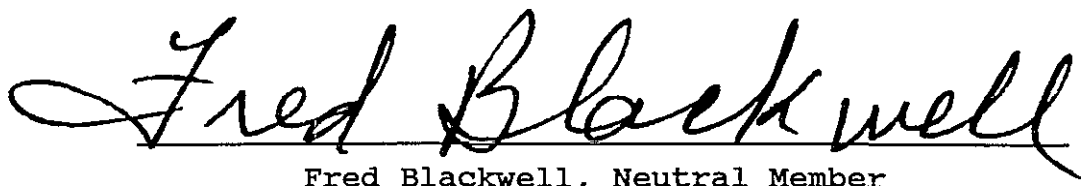
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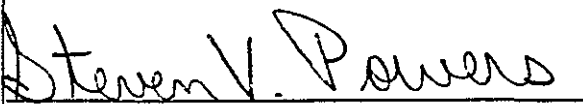
In disposing of the herein claims the Board will adhere to the precedents of Awards Nos. 9 and 10 and consequently, the herein claims will be sustained.


AWARD:

Claims sustained.

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016

  
Fred Blackwell, Neutral Member

  
S. V. Powers, Labor Member

  
J. H. Burton, Carrier Member

APR 05 1991

Executed on \_\_\_\_\_, 1991

FRED BLACKWELL  
ATTORNEY AT LAW

19129 ROMAN WAY  
GAITHERSBURG,  
MARYLAND 20879  
(301) 977-5000

ADDENDUM BY REFEREE BLACKWELL

Foregoing proposed Award No. 11, Case 11, along with proposed Award No. 10 and Proposed Award No. 12, was the subject of extensive discussion in the Executive Session conducted by the Board in Carrier's offices, Philadelphia, Pennsylvania, on August 22, 1990. All of these proposed Awards No. 10, 11, and 12, related to similar claims arising from the Carrier actions of contracting out paving work at grade crossings.

After careful consideration of all matters covered by said discussion in the Executive Session, it is concluded that as with Award No. 10, Case No. 10, such discussion does not provide a basis for changing any of the findings in the proposed Award.

An Addendum similar to the herein Addendum will be found in Awards Nos. 10 and 12.

A handwritten signature in cursive script that reads "Fred Blackwell". The signature is written in dark ink and is positioned above a horizontal line.

Frederick R. Blackwell, Chairman/Neutral  
Special Board of Adjustment No. 1016

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FRED BLACKWELL  
ATTORNEY AT LAW

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GAITHERSBURG,  
MARYLAND 20879  
(301) 977-5000