

SPECIAL BOARD OF ADJUSTMENT NO. 1016

**AWARD NO. 147
CASE NO. 147**

**PARTIES TO
THE DISPUTE:** Brotherhood of Maintenance of Way Employees

vs.

Consolidated Rail Corporation

ARBITRATOR: Gerald E. Wallin

DECISION: Claim denied

DATE: June 26, 2001

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned outside forces (Atlas) to perform Maintenance of Way work (dismantling and burning a box car used as a storage facility) in the Pitcairn Yard, Pittsburgh, Pennsylvania on April 28, 29 and 30, 1996 (System Docket MW-4436).
2. The Agreement was further violated when the Carrier failed to give the General Chairman prior written notification of its plan to assign said work to outside forces.
3. As a consequence of the violations referred to in Parts (1) and/or (2) above, Structural Welders R. Bowser, T. Grecko, B. M. Putze, J. E. Thomson, S. Aftanas and T. R. McGuire shall each be allowed "... ten (10) hours straight time all overtime, to be credited with day and month, to be made whole.***"

FINDINGS OF THE BOARD:

The Board, upon the whole record and on the evidence, finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended; that this Board is duly constituted by agreement of the parties; that the Board has jurisdiction over the dispute, and that the parties were given due notice of the hearing.

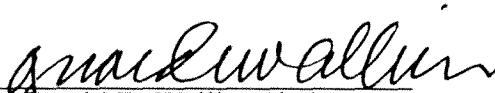
The record herein demonstrates that Carrier hired a contractor to dismantle and burn the residue of a boxcar that had been used for storage at its Pitcairn Yard.

As the February 6, 1997 letter of Carrier's Senior Director - Labor Relations states, notice was served as part of the larger Pitcairn Yard construction project. The removal of the boxcar was incidental to that project.

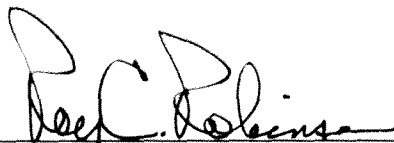
Careful review of the instant record supports the contention that "car dismantling" has also been performed by other crafts. The requisite exclusivity of performance by the Organization has not, therefore, been demonstrated. We note that the other crafts were provided notice of the opportunity to intervene as third parties but declined to do so.

AWARD:

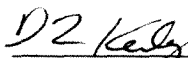
The Claim is denied.



Gerald E. Wallin, Chairman
and Neutral Member



R. C. Robinson,
Organization Member



D. L. Kerby,
Carrier Member