

SPECIAL BOARD OF ADJUSTMENT NO. 1016

Parties
to the
Dispute

CONSOLIDATED RAIL CORPORATION

and

BROTHERHOOD OF MAINTENANCE OF
WAY EMPLOYES

Case No. 18

STATEMENT OF CLAIM

(1) The Agreement was violated when outside forces were used to dismantle track at Dennison, Ohio beginning April 29, 1985 (System Docket CR-1888).

(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) As a consequence of the aforesaid violations, Mr. D. Moffet shall be allowed eight (8) hours of pay at the Class 2 machine operator's rate, for each day beginning April 29, 1985, on which the work referred to in Part (1) hereof is performed by outside forces.

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OPINION OF THE BOARD

This Board is once again presented with a claim from the Organization that Carrier subcontracted work belonging to Organization members without notifying the General Chairman that it intended to do so.

The Organization contends that the work in question, removal of ties and rail, is work reserved to it under the Scope Rule of the Schedule Agreement and all conditions of that Rule apply.

Carrier contends that the action taken in this instance was not a subcontract of the Organization's work, but an outright sale of 14.5 miles of track and a certain number of ties. The Railroad sold the track and 70,000 ties to the Warner Company. The Company removed the ties and the rail from the Dennison area, as it was agreed they would.

This Board has reviewed the record and the documents contained therein. We are of the opinion that Carrier sold certain track and ties to the Warner Company with the stipulation that it remove what it purchased from Carrier property. The contract signed by both parties stipulated that the Warner Company would have 180 days to

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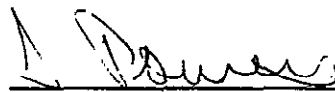
complete its task, clean up all debris, and vacate Carrier's property.

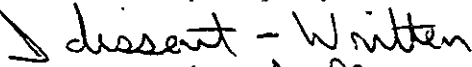
There are numerous awards addressing this same issue in the railroad industry. The acceptable position is that once Carrier sells company materials to an outside vendor, that vendor has the right, if not the obligation, to come on Carrier property and remove the material in question. This Board can find no basis in the record before it to support the instant claim. What took place here was an outright sale of rail and ties to a Vendor. It was not a subcontract of M&W work and the instant claim must be denied.

AWARD


Claim denied.


R.E. Dennis, Neutral Chairman


S. Powers, Employee Member


dissent - Written
dissent to follow


Date of Approval


J. H. Burton, Carrier Member