

Award No. 30
Case No. 30

Special Board of Adjustment No. 1016

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way
Employees

and

Consolidated Rail Corporation

STATEMENT OF CLAIM:

- "(1) The Agreement was violated when Carrier assigned outside forces (Massilon Plumbing Inc.) to perform plumbing work at the new Trail Van Intermodal Facility at Buckeye Yard, Columbus, Ohio from November 21, 1985 through January 3, 1986 (System Dockets CR-2445, CR-2446, CR-2447, CR-2448 and CR-2449).
- (2) As a consequence of the aforesaid violation, B&B Plumbers J. W. Zink, W. A. Smith and I.W. Smith shall each be allowed two hundred (200) hours of pay at their respective straight time rates."

FINDINGS:

This is another case involving Carrier's use of an outside forum to perform work that, according to Petitioner, belonged to Carrier's Maintenance of Way forces. Each of the cases concerns a different portion of the work involved in the project. In the present case, plumbing work is involved while in Award 28, the lead case, building construction was

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the work in question. Award No. 29 dealt with hauling and unloading, tamping up and grading roadbed.

That the project was of major dimensions is quite clear. It was required in order to replace Carrier facilities at East Columbus, Ohio, that were being displaced by a new interstate highway. The overall cost of the project, which was paid for by the State of Ohio, amounted to \$13.5 million dollars.

It is well settled that a carrier will not be compelled to subdivide a major project in order to give portions that may be relatively small to employees of the carrier. In the interests of efficiency, timing and work coordination, that principle is not unreasonable. In carrying out a project, building contractors frequently have to use subcontractors to perform some of the skilled work involved and it is not helpful to the claim that in this instance, the plumbing work was performed by Massilon Plumbing, Inc.; that work was an essential element of the entire project.

In all these cases involving the East Columbus project, Petitioner's main thrust had been that Carrier failed to give the Organization the prescribed written notice of the project and to explore the matter in good faith with the Organization before committing itself to farm out the work to the outside firm. This Board found no merit in these contentions in

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Awards 28 and 29 and perceives no valid ground for reaching a different decision in this case. Nor will we depart from the accepted principles and hold that Carrier should have split up the project in order to assign the plumbing work, totalling some 200 hours, to its own employees.

This is not to say that this Board is in accord with Carrier's view that no damages are due in this in any event in view of the absence of a penalty provision in the Agreement and the fact that none of Carrier's plumbers were on furlough. The Board would have awarded damages if it had been persuaded that Carrier had wrongfully contracted out work to an outside firm. It believes that Carrier's reasoning to the contrary and that of the awards it cites are in error. Contracting out, when improper, is an extremely serious offense that goes to the very essence of the collective bargaining agreement.

AWARD: Claim denied.

Adopted at Philadelphia, PA July 28 , 1989


Harold Weston, Chairman


Carrier Member


Employee Member