

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
versus  
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT  
OF CLAIM:

Claim of the System Committee that:

1. Carrier violated the effective Agreement by assigning to, and permitting persons holding no seniority rights, as Welders, on the Southern District, to butt weld rail at the Carrier's Welding facility at No. Little Rock.
2. The following Welders, Southern District:

James O. Turner  
Earl M. Crofford  
Harold E. Welch  
Charles L. Clary  
Jewell O. Cunningham  
Oliver C. Messerli  
Beecher V. Baysinger  
Douglas H. Morgan

be compensated for their proportionate share of the total number of man hours worked by these outsiders performing rail welding work, beginning August 15, 1968 (60 days prior to date claim was presented) and continuing until this violation is discontinued.

FINDINGS:

It appears that on November 13, 1961 the Carrier entered into a contract with Matisa Railweld, Inc. to produce continuous ribbon rail of 1440 linear feet by fusion of standard lengths of rail at North Little Rock. The Employees protested that contracting as a violation of the M of W agreement and, after work commenced thereunder, filed a claim in behalf of welders on January 29, 1962.

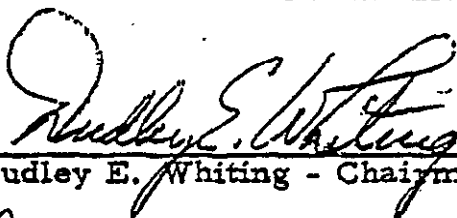
That claim was appealed to the Chief Personnel Officer and, after conferences in which it was agreed that Carrier's employees would load and unload material at the Matisa plant, the claim was withdrawn. Operation of the plant by Matisa continued.

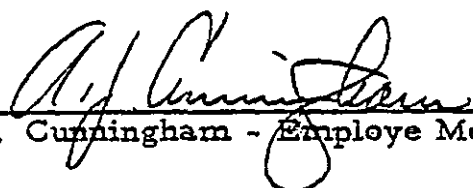
On February 1, 1967 Holland Railweld Company bought out Matisa and continued the operation of its North Little Rock plant. This claim was submitted on October 15, 1968.

That prior handling of the same kind of claim respecting the contracting of the production of ribbon rail must be construed as an acceptance of the propriety of such contracting under the agreement and, absent any significant change in the operation or the agreement, the Organization is estopped from acquiring jurisdiction over that work by a claim or grievance. The only way to achieve that result now is by negotiation and agreement, which is not within the authority of this Board.

AWARD: Claim denied.

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Dudley E. Whiting - Chairman

  
A. J. Cunningham - Employee Member

  
G. W. Johnson - Carrier Member

October 9, 1972

File: 247-4699