

SPECIAL BOARD OF ADJUSTMENT NO. 498

PARTIES: BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

and

GREAT NORTHERN RAILWAY COMPANY

AWARD IN DOCKET NO. 14

STATEMENT OF CLAIM: The claim in dispute has been identified by the Organization as follows:

"Claim of the System Committee that:

1. The Carrier violated the effective Agreement by assigning to a contractor the work of clearing up the Carrier's right-of-way near Berthold, North Dakota, following a train wreck at that point on January 18, 1961.

2. That all section laborers holding seniority on the Third District Roadmaster's District of Seniority Division No. 4, who were laid off in force reduction and not working during the period January 22 to February 6, 1961, during the time the contractor was assigned to clear the carrier's right-of-way, be now compensated for their proportionate share of the total number of 2048 man hours of work at the pro rata rate and 328 man hours at the time and one-half rate, which is the total time expended by the contractor and his employees in performing the work referred to in Part 1 of this claim."

FINDINGS: Clearing the right-of-way of damaged or spilled material is properly work of M of W employees but the transfer of lading from damaged cars to other cars is not work belonging exclusively to them. In this case the facts are not sufficiently developed to permit a finding as to the nature of the work performed by the contractor.

In addition thereto it appears that several trucks were needed to transport the lading a few miles to other cars, which the Company did not have available for that purpose and, to this extent at least, the contracting was comprehended by the Mediation Agreement of October 11, 1933.

The evidence adduced in this case is not sufficient to permit a sustaining award.

AWARD: Claim denied.

Dated at St. Paul, Minn., this 26th day of November, 1963.

(s) Dudley E. Whiting  
Dudley E. Whiting, Referee

(s) A. J. Cunningham  
Organization Member

(s) T. C. DeButts  
Carrier Member