

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 68

Case No. 68

Referee Fred Blackwell

Carrier Member: J. H. Burton

Labor Member: S. V. Powers

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier assigned outside forces (P. W. Miller Contractors) to construct a retaining wall at the Baltimore Truck Train Terminal from May 25 through June 5, 1987 (System Dockets CR-3379, CR-3380 and CR-3381).
- (2) The Carrier also violated the Agreement when it did not give the General Chairman advance written notification of its intention to contract out said work.
- (3) As a consequence of the violations referred to in Parts (1) and/or (2) above, Harrisburg Division B&B employees J. Shipley, J. P. Reid, and T. P. Gurrera shall each be allowed pay at their respective rates, for an equal proportionate share of the total number of man-hours expended by the outside forces performing the work referred to in Part (1) above.

FINDINGS:

Upon the whole record and all the evidence, and after hearing on December 17, 1990, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.

DECISION: Claim denied

**FRED BLACKWELL
ATTORNEY AT LAW**

**19129 ROMAN WAY
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(301) 977-5000**

OPINION

This claim arises at Bayview, Baltimore, Maryland, where the Carrier leases property to Pennsylvania Truck Lines, Inc. (PTL), a wholly owned subsidiary of Conrail. PTL conducts operations of loading and offloading truck/train freight on the leased premises.

In May 1987 PTL contracted with P. W. Miller and Company, Inc., to build a retaining wall in an area on PTL's premises where cars are inspected.

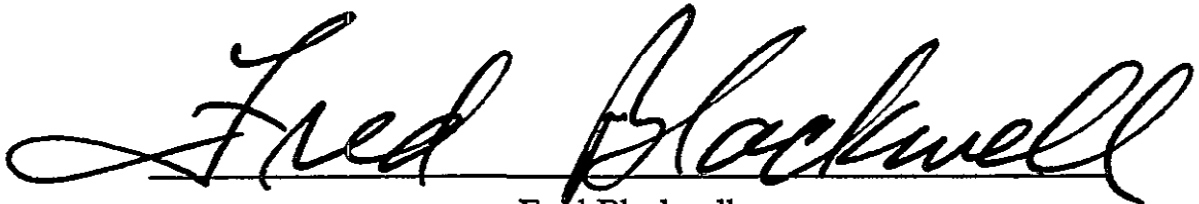
The Employees assert that the construction of the retaining by the Miller Company constituted a violation of the MW Scope Rule by Conrail.

The Carrier submits that the retaining wall is not within the MW Scope Rule and that the claim should be denied on this basis.

* * * * *

From full review of the record the Board concludes that nothing of record established any linkage between PTL and the BMW-Conrail Scope Rule or that Conrail had any active role in engaging the Miller Company to build the retaining wall on the premises leased to PTL.

In view of this finding it cannot be said that the Carrier violated the Agreement; therefore, based on the record as a whole, the claim will be denied for lack of requisite record support. Third Division Award No. 26103 ((8-22-86)).



Fred Blackwell
Chairman / Neutral Member
Special Board of Adjustment No. 1016

April 15, 1994.

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FRED BLACKWELL
ATTORNEY AT LAW

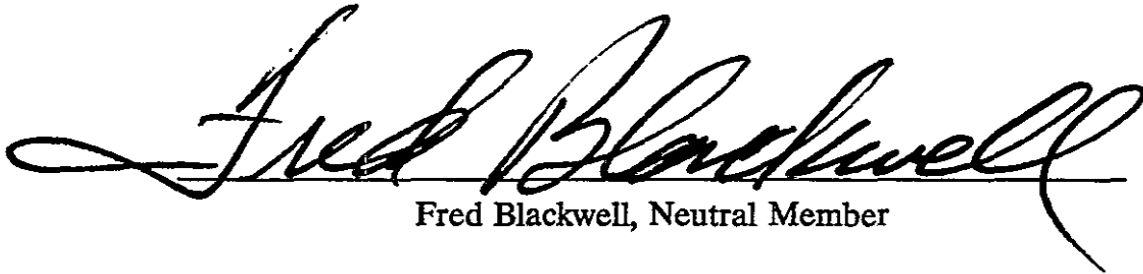
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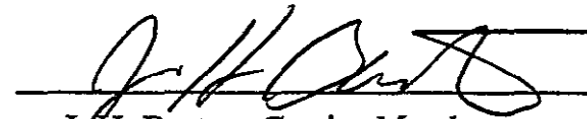
AWARD

The Agreement was not violated. Accordingly, the claim is hereby denied.

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016


Fred Blackwell, Neutral Member


S. V. Powers, Labor Member


J. H. Burton, Carrier Member

Executed on 5/3, 1994

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