

SPECIAL BOARD OF ADJUSTMENT 1110

Award No. 130  
Case No. 130

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

CSX Transportation, Inc. (former Baltimore and  
Ohio Railroad Company)

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Agreement was violated when the Carrier assigned outside forces (Bankhead Welders) to make field welds between Mile Posts BF 270.7 and 311.0 on the Baltimore Service Lane from September 8 through October 7, 1998 [System Files G055508399/12(99-0187) and G055508299/12(99-0186) BOR].
2. The Agreement was further violated when the Carrier failed to give the General Chairman advance written notice of its intent to contract out the work.
3. As a consequence of the violations referred to in Parts (1) and/or (2) above, Welder M. D. Murtaugh and Welder Helper D. A. Wagner shall each be allowed three hundred forty (340) hours' pay at their respective straight time rates.

FINDINGS:

This Board, upon the whole record and all of the evidence, finds and holds as follows:

1. That the Carrier and the Employee involved in this dispute are, respectively, Carrier and Employee within the meaning of the Railway Labor Act, as amended,; and
2. That the Board has jurisdiction over this dispute.

OPINION OF THE BOARD:

Addendum 13 to the Memorandum of Agreement, dated June 13, 1978, provides, in pertinent part, that:

1. In the event the Carrier decides that in

light of the criteria specified in Paragraph (b)5.(a) of the Scope Rule of the Schedule Agreement it is necessary to contract work of a type currently performed by the employees coming under the Scheduled Maintenance of Way Agreement, it shall give the General Chairman notice of intent to contract and the reasons therefor, together with supporting data. Advance notice shall not be required concerning minor transactions except as provided in Attachment "A" of this Agreement.

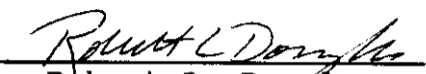
A careful review of the record indicates that the Carrier failed to notify the Organization about the disputed work. The Carrier provided a letter, August 5, 1998, about the Carrier's plans to contract out certain work. The August 5, 1998 letter, however, did not cover the disputed work. In particular, the August 5, 1998 letter covered work at a different location than the disputed work.


The Carrier's failure to provide advance notice to the Organization about the disputed work at the actual location of the disputed work therefore did not constitute adequate, effective, or sufficient notice within the requirements of Addendum 13 of the Agreement.

The record indicates that the outside forces subsequently performed the disputed work. The disputed work constituted scope covered work. The Carrier therefore had an affirmative obligation to provide advance notice to the Organization about the disputed work. The Carrier failed to do so. As a result, the record proves that the Carrier violated the Agreement in this matter.

AWARD:

The Claim is sustained in accordance with the Opinion of the Board. The Carrier shall make the Award effective on or before 60 days following the date of this Award.

  
Robert L. Douglas  
Chairman and Neutral Member

  
Donald D. Bartholomay  
Employee Member

Dated: 3/8/02

  
Mark D. Selbert  
Carrier Member

*I dissent*