

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT
OF CLAIM:

Claim of the System Committee that:

1. Carrier violated the effective working Agreement between the MoPacific RR Co. and the BMW by having the Miller-Stauch General Contractor Inc., build a new freight house facility in East Bottoms, Kansas City, Mo. This work commenced on or about October 29, 1964.
2. Carrier shall now pay the following named furloughed B&B employees at their respective pro rata rate for an equally proportionate share of the total man hours consumed by the Contractor's forces in the building of this facility:

E. P. Taylor
H. L. Jones
E. R. Glaze
W. A. Anderson
W. G. Lamar
E. J. Ballew
J. A. Anderson
G. F. Petre
W. J. Stehle

FINDINGS: There is no provision in the agreement respecting the contracting of new construction projects, the scope rule is general in nature and has been held not to reserve such work, because it does not describe or define any work coverage.

Thus it is necessary to examine the prior practice of the parties under the agreement. It is apparent that in some cases buildings have been constructed by Carrier's forces and in other cases they have been constructed by contractors. This practice has not reserved the work solely to Carrier's work force, but is consistent with the exercise by the Carrier of a managerial right and responsibility to build or contract.

Historically the Carrier built a freight house facility at St. Louis with its work force. Picketing by building trades unions delayed the work and escalated the cost. When Carrier decided to build a distribution yard at Kansas City it obtained agreement by high level union officials on the distribution of work between its forces and the building trades, but that agreement was without prejudice to anyone's future rights.

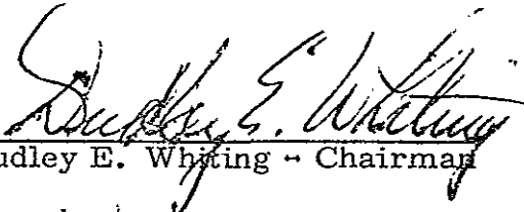
Many of the structures cited by the Employees as being built by them were, part of that project and hence cannot establish a precedent. Moreover the question of whether the Carrier had forces available to accomplish the job cannot be determined solely from the availability of a few laid off B and B mechanics. One must also take into account the kinds of mechanics, and the engineering, supervisory, and procurement forces needed to accomplish the work.

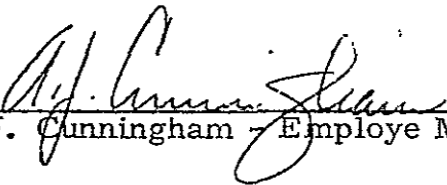
The Kansas City freight facility was a large, complex construction project involving an underfloor chain-conveyor system, air conditioning, plumbing, and lighting. Considering the size of this project and the Carrier's unhappy experience at St. Louis in attempting to build a similar project, it cannot be said that its decision to contract the Kansas City project was unreasonable.


Hence no agreement violation appears and the claim must be denied.

AWARD: Claim denied.

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Dudley E. Whiting - Chairman


A. J. Cunningham - Employee Member


G. W. Johnson - Carrier Member

December 12, 1974

File: 247-4170