

AWARD NO. 4
CASE NO. MW-161

SPECIAL BOARD OF ADJUSTMENT NO. 293

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM:

(1) The Carrier violated the effective Agreement when, on January 30, 31, February 3 and 4, 1958, it assigned employees of the Universal Contractors of Montclair, N. J., to construct an asphalt platform between the new car repair tracks at Phillips Street, Jersey City, N. J.

(2) The senior furloughed Machine Operators, Truck Drivers and Track Laborers on the territory where the work was performed each be allowed pay at their respective straight time rates for an equal proportionate share of the total man-hours consumed by the contractor's forces in performing the work referred to in Part (1) of this claim.

OPINION OF BOARD:

This case arises out of a protest against the Carrier's action in assigning to an outside firm the construction of a penetrated stone platform between the tracks of the new repair track facilities at Phillips Street in Jersey City. The evidence discloses that the Carrier did not possess a 10-ton roller or a spray machine, both of which were necessary for the performance of the involved work. The Carrier's grader was not available at the time in question. While it may be true that the Carrier's own forces could have performed the spreading of oil (tar) and fine stone, these operations comprised only a part of the entire construction job. Under the circumstances, it would not have been reasonable to have required the Carrier to sub-divide this construction job in order to permit its employees to perform the spreading operations just stated. A denial award is warranted.

The Board is of the view that in circumstances of this type the possibility of disputes would be greatly reduced if the parties held joint discussions on the problem involved prior to the contracting out of construction work of this nature.

A W A R D

Claim denied.

(s) Lloyd H. Bailer

Lloyd H. Bailer, Neutral Member

(s) A. J. Cunningham

A. J. Cunningham, Employee Member

(s) C. S. Strang

C. S. Strang, Carrier Member