

Award No. 16
S.B.A. Case No. 16

SPECIAL BOARD OF ADJUSTMENT NO. 313

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
and
UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

- "(1) The Carrier violated the effective Agreement when it assigned the work of excavating and backfilling in connection with the installation of water and sewer pipe line at Desert Mound, Utah, to outside forces.
- "(2) Roadway Equipment Operator R. A. Bradfield be allowed pay at his straight time rate for a number of hours equal to the number of hours consumed by the contractor's employe in performing the excavating and backfilling work referred to in Part (1) of this claim."

FINDINGS:

Special Board of Adjustment No. 313, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

The carrier and employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Board has jurisdiction over the dispute involved herein.

This case involves principally a question of the carrier's right to contract out certain work. The work involved some excavating and backfilling of a trench 18 inches wide in connection with the laying of 400 feet of sewer pipe at Desert Mound, Utah. The carrier contracted this particular part of the work, but all other work in connection with the project was performed by the carrier's water service forces.

The organization claims that the work could have been done adequately with use of a wagon crane owned by the carrier and if it had chosen to use this equipment, the work would logically have been performed by claimant, Roadway Equipment Operator Bradfield, who was then laid off.

The organization claims that the carrier's action violated the scope rule and that the work is not embraced within the contract exception which reads:

"3. The performance of maintenance work by contractors will be curtailed to the extent employes included within the scope of the agreement effective December 1, 1937, are available to perform such work, and the company has necessary equipment.

"It is understood the company reserves the right to contract projects to the extent that such work was handled by contract during normal conditions."

The carrier counters with the argument that the wagon crane bucket, which the organization says the carrier should have used, was not nearly as suitable as the small International tractor with an 18 inch hydraulic-operated back hoe owned and operated by the contractor and, besides that, the carrier's wagon crane was 100 to 250 miles away at the time.

The necessary proof relative to the company's previous handling of such work by contract during normal conditions was lacking. The matter was neither proved nor disproved.

We are not inclined to give very much weight to an employee's assertion or the organization's contention that the carrier should have used different equipment. We believe the carrier's officers are in a better position to decide what equipment is most suitable for the job and that they have the right and duty to make such decisions, subject to other limitations within the contract. We see nothing in the case which would justify our reversing management's decision in this matter.

We believe the claim should be denied.

AWARD:

The claim is denied.

SPECIAL BOARD OF ADJUSTMENT NO. 313

(s) Marion Beatty
Marion Beatty, Chairman

(s) A. J. Cunningham
A. J. Cunningham, Organization Member

(s) A. D. Hanson
A. D. Hanson, Carrier Member

Omaha, Nebraska
November 21, 1960