

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19354
Docket Number MW-19432

Joseph E. Cole, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Illinois Terminal Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned or otherwise permitted outside forces to perform Bridge and Building Department work between McKinley Junction Yards and Mont, Illinois.

(2) B&B Foreman Andrew Northcutt, Carpenters George Jackson, Joseph Kennedy, P. H. Green, O. L. Reed, J. Lima, C. Newcum, J. D. Roark and J. L. Bourland each be allowed pay at their respective rates* of pay for an equal proportionate share of the total number of man hours expended by outside forces in the performance of the B&B work referred to in Part (1) of this claim.

(3) The Carrier shall also pay the claimants six percent (6%) interest per annum on the monetary allowances accruing from the initial claim date until paid.

*This claim contemplates that all services performed by outside forces during the claimants' straight time hours will be allocated to the claimants on the basis of the claimants' straight time rates and that all service performed by outside forces during the claimants' overtime hours should be allocated on the basis of the claimants' overtime rates.

OPINION OF BOARD: After carefully examining the record, we find that:

1. Carrier found it necessary to rehabilitate thirteen and one-half miles of its trackage between McKinley Junction Yards and Mont, Illinois. Carrier's Bridge and Building Department forces performed all work of removing and replacing crossings, as the track work progressed until December 14, 1969 when such work was then performed by the contractor.

2. Organization alleged Agreement violation when Bridge and Building Department employees were denied this work on December 14, 1969 and continuing thereafter.

3. Carrier asserts that this case is a companion case to the dispute, between same parties, as involved in Docket MW-19270.

4. Carrier and Organization, in handling on the property and in submission to this Board, agreed that facts prevalent in Docket MW-19270 are the same facts and positions as prevailing in this dispute and each by reference makes them a part of this dispute.

5. Carrier submits that this case must necessarily turn on the same finding as those applicable to Docket MW-19270 for the Bridge and Building work here in dispute is but a small part of the total project covering rehabilitation of track between McKinley Junction Yards and Mont, Illinois and that Docket MW-19270 must be favorable to the employes before the instant claim can have a scintilla of merit.

6. Docket MW-19270 was found favorable to the employes by its adoption of Award 19337 (Edgett) on July 14, 1972.

7. We have carefully examined the Board's findings in Award 19337, and we will follow Award 19337 which involved these same parties and similar issues and sustain this claim for as was stated in Second Division Awards 6113 (Simons) and 6308 (Cole):

"Reference is made to Third Division Award No. 10911, which succinctly states the following:

'When the Division has previously considered and disposed of a dispute involving the same parties same rules and similar facts presenting the same issue as is now before the Division, a prior decision should control. Any other standard would lead to chaos.

... in the absence of any showing that (previous) awards are patently erroneous (and no showing was made) we must follow them.'"

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

A W A R D

Part (1) of the claim is sustained. Part (2) of the claim is sustained for each claimant to the extent stated in Award 19337. Part (3) of the claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

Dated at Chicago, Illinois, this 28th day of July 1972.