

*"An Injury To One Is An Injury To All"*

## **Pennsylvania Federation**

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Office of the General Chairman  
Jed Dodd

May 14, 2004

To: All Amtrak Committees

From: Jed Dodd, General Chairman

Re: **Contracting Out of Work Victory for Union  
Amtrak Arrogance 0  
Workers Rights 3**

Dear Brothers and Sisters:

We have always had a very adversarial relationship with Amtrak management with respect to the contracting out of MW work. This relationship is often bitter and acrimonious. The problem exists on every Class 1 railroad in the United States. It is also a major issue between virtually every employer in the United States and their organized workers. Our contract with Amtrak management has restrictions in it that prohibits Amtrak management from doing "whatever they want" with respect to contracting out of work. For instance, it specifically prohibits the contracting out of our basic maintenance and construction work but it does permit the contracting out of some major building construction projects of a nature that was not performed by BMWWE forces prior to 1987.

Our problem on Amtrak has become far worse because of President David Gunn and his new team of anti-employee Union busters. They have refused to honor our agreements and have dealt in bad faith with us when we have requested conferences to discuss these important issues. This lawless attitude has resulted in senior management instructing their engineering department to contract out work despite the clear prohibitions in our contract to use contractors. We have been meeting internally for a couple of years to devise a plan to roll back their Union busting - anti-employee contracting out of work schemes. Unfortunately a fight like this takes patience and time

because we must react after they have violated the contract and hired the contractor to perform our work.

We threatened to strike over the contracting out of work issues. Amtrak wanted to avoid a service disruption and agreed to expedited arbitration of three contracting out of work issues. The three issues we picked to fight over were the contracting out of carpet laying at 30<sup>th</sup> Street Station, the use of a contractor operated Holland Welder to perform track welding work and the use of the contractor operated Slot Machine to pick up and distribute track materials with the production gangs. All of this work is reserved to the bargaining unit and Amtrak management was simply flaunting their power by breaking the agreement and contracting out the work. While we believe that we have a legal right to strike over these issues, we agreed to the expedited arbitration because we believe that a Federal Judge would ignore our right to strike when 1000 passenger trains are stopped and issue an order putting us back to work. The best we could get from the Judge's order putting us back to work would be that the issues would be sent to arbitration.

The arbitrator ruled in our favor on each case. His ruling goes far beyond the three issues which were in dispute because he carefully looks at each reason that Amtrak had for violating our contract and rejects it. These are the same tired excuses that Amtrak uses in many other contracting disputes and we hope to apply these precedent setting awards to these other disputes as well. Each award is extensive and they are attached for your review. Briefly, the arbitrator ruled as follows:

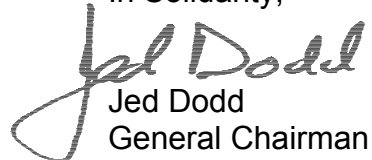
- Case 1:**      **Carpet Installation Work:** *“The claim is sustained. The Carrier is ordered to return the carpet installation work to the BMW forces... and compensate the appropriate BMW sub-department forces at their applicable rates of pay for an equal proportionate share of the man hours expended by the contractor forces in performing the work identified in the claims.”*
- Case 2:**      **Holland Welding Work:** *“The claim is sustained. The track welding work should be returned to the Track Department welders represented by the BMW ... and the Carrier must compensate the appropriate track sub-department welders at their applicable rates of pay for an equal proportionate share of the man hours expended by the contractor forces in performing the work identified in Amtrak's letter dated September 12, 2003.”*
- Case 3:**      **Material Distribution/Slot Machine Work:** *“The claim is sustained. Amtrak did violate its May 19, 1976, Agreement with the BMW (as amended) when it contracted out the track material handling work identified in its letter dated August 20, 2003. The tie handling work must be returned to the Track Department forces*

*represented by the BMWWE ... The appropriate Track Department forces represented by the BMWWE must be compensated at their applicable rates of pay for an equal proportionate share of the man hours expended by the contractor's forces in performing the work..."*

These awards represent a great victory for the members of the BMWWE working on the Northeast Corridor. They are the result of the hard work of the Vice Chairmen and numerous members who worked with us to gather the information and evidence necessary to win these claims and the professional support services we received from Grand Lodge who worked very hard in preparing these cases. Most importantly, it shows what can be done if we work together, members, officers and professional support staff to achieve a common objective.

While this victory for member's rights is huge, it is important to remember it is one battle in a war. We must take the tactics and precedents we learned in this battle and translate them into other victories on other important contracting out of work issues confronting us on the Amtrak property. We need your support and solidarity as we work our way through this mine field. We know that we can rely upon you to do whatever it will take to ensure that our work is protected from the aggressive policies of David Gunn and his team of anti-Union, anti-employee managers. We hope that Amtrak management takes this precedent to heart and begins to deal fairly with us on these important matters.

In Solidarity,



Jed Dodd  
Jed Dodd  
General Chairman