

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

**THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY
COMPANY**

**THE CHICAGO, ROCK ISLAND & GULF RAILWAY
COMPANY**

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

STATEMENT OF CLAIM: "Claim of Oliver W. Heaston, Bridge and Building Carpenter, Des Moines Division, that he be paid the difference between the rate applicable to B. & B. helpers, and the rate applicable to second class carpenters during the period that he was classified as carpenter helper, but performed the work of second class carpenter from October 12, 1936, to April 1, 1937, inclusive."

EMPLOYEES' STATEMENT OF FACTS: "Oliver Heaston was hired as a second class carpenter in September 1925, and worked in that capacity until August 19, 1936. From October 12, 1936, until April 1, 1937, inclusive, he was classified and rated as a B. & B. helper, but performed the same class of work as he had formerly performed as second class carpenter."

POSITION OF EMPLOYEES: "Rule 1, Group 1, of Agreement in effect between the Carrier and the Brotherhood, defining the work of employees in the B. & B. Department, reads in part:

'(c-1) Mechanics, first-class: Mechanics who are capable of laying out work and working from plans, skilled in the erection of new structures, as well as altering and maintaining existing structures and performing all other bridge and building work in a workmanlike manner coming under the scope of this department, shall be considered composite mechanics as their work comprises all classes of mechanical work.

'(c-2) Mechanics, second-class: Mechanics capable of doing all rough carpenter, bridge and repair work.

'(d) Bridge and Building Helpers: Employees assigned to perform work generally recognized as helper's work and assisting mechanics in the performance of their work.'

"From it it will be observed that B. & B. men doing rough carpenter and B. & B. repair work shall be classified and paid as second class carpenters. It will be further observed that the employees classified and paid as helpers shall not be required to perform actual mechanic's work, but will assist the mechanics in the performance of their work.

to do the same items of work which he had performed while he was working in the first place as a helper and learning work which would permit him to be promoted.

"Section (d), Group 1 of Rule 1, reads:

'Bridge & Building Helpers: Employees assigned to perform work generally recognized as helper's work and assisting mechanics in the performance of their work.'

"The following constitutes work which has always been performed by helpers and has always been generally recognized as helper's work under the above provision: In construction or maintenance of buildings, after work is laid out by either foreman or mechanic in charge, helpers assist in sawing or framing of materials; they also assist in placing and nailing. In handling of new bridge work, after materials are laid out by foreman or mechanic, they assist in framing, placing, drilling, bolting, etc. When removing old portion of bridge, all work in connection with such removal can and has been done by B. & B. helpers when under the supervision of foreman or mechanic. In construction of or repairs to wooden platforms, stock yards, sidewalks, or concrete walks, concrete platforms, brick platforms, which do not require skilled mechanics, work is frequently done by B. & B. helpers under supervision of foreman or mechanic.

"In addition to the above items there are a great many other duties performed by helpers under supervision of foreman or mechanic, but the items listed are the most important ones.

"During the time that Mr. Heaston worked as a B. & B. helper he performed work generally recognized as helper's work as above recited.

"There was a question of doubt as to this party having any seniority rights to work on the new Des Moines Division, and there was also question as to the seniority of other B. & B. employees, namely, Gordon Mitchell, Scott Fleming, Wm. Swinton and Chas. Parmley. General Chairman Wilson handled the question of seniority of these parties with the superintendent and was in conference with Supt. Bakke at Des Moines on February 8, 1938, when a letter was addressed to Mr. F. H. Frey, Assistant to Chief Operating Officer, requesting further check to determine if these employees had lost their seniority. The records were checked out with general chairman Wilson on March 1, 1938, and on that date a letter was addressed to the Superintendent with copy to Mr. Wilson, indicating Heaston had no seniority, but it was stated further records would be checked to determine his rights. It later developed that Heaston had rendered service which was not recorded on the personal record files, and in conference with Mr. Wilson on March 30, 1938, it was agreed that Heaston would be permitted to transfer to the Des Moines Division with his original seniority as carried on the Missouri Division, and this was confirmed in letter to Mr. Wilson on that date, and it was understood from the information developed in these extensive investigations, and the fact that this employee had up to that date no rights on the Des Moines Division, being borrowed from the old Missouri Division, and also because there were no junior B. & B. carpenters working as such on the old Missouri Division and he performed only work generally recognized as helper's work, that the claim made in Heaston's behalf was finally disposed of, and we are not informed why it was revived in general chairman Wilson's letter of January 4, 1939."

OPINION OF BOARD: The question presented in this case is the same as that involved in Docket MW-915, Award No. 915, and the Opinion set forth there being equally applicable here is adopted in this case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe 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 case be remanded to the parties for handling in accord with above Opinion.

AWARD

Case remanded as indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of July, 1939.