

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

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

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

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

STATEMENT OF CLAIM: "Claim of Frank E. Brady, Bridge & Building Carpenter, Des Moines Division, that he be paid the difference between the rate of pay applicable to Bridge and Building helpers—50¢ per hour, and the rate applicable to second class carpenters—58½¢ per hour, during the period that he was classified as carpenter helper, but performed the work of second class carpenter, from September 11th, 1936, to January 7th, 1938, inclusive."

EMPLOYEES' STATEMENT OF FACTS: "Frank Brady was hired as a second class carpenter in July, 1928, and worked in that capacity until July 13, 1936. From September 11, 1936, to January 7th, 1938, inclusive, he was classified and rated as a B. & B. helper but performed the same class of work that he had formerly performed as a 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.

"Then, too, B. & B. helpers are, in fact, apprentices and hope at some time in the future to be promoted to carpenters and they endeavor, while working as helpers, to learn the work required in the higher classifications and this experience they gain in work incidental to their work as helpers.

"After a helper has been promoted and on account of reduction in force is required to go back to a helper's classification, he certainly would continue 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: Employes 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. The B. & B. foreman in charge of this gang whose services are governed by the Maintenance of Way agreement the same as those of Mr. Brady reported time for his men in accordance with the work and classification in which they were engaged.

"During time Mr. Brady was employed as a B. & B. helper from Sept. 11, 1936, to Nov. 29, 1936, he performed work generally recognized as helper's work as above recited.

"As there were no B. & B. carpenters junior to Brady employed on the Des Moines Division as B. & B. carpenters when he returned to service September 11, 1936, and during period he remained in service to November 29, 1936; and as, while working as a helper, he was required to perform only work generally recognized as B. & B. helper's work, to which his seniority entitled him; and, further, as, during the period in question he worked as helper in gangs with and under the supervision of a foreman and B. & B. carpenters who were senior to him, there is no basis for the claim. In fact, in conference March 31, 1938, it was understood that on basis of facts developed there was no merit in the claim and that it would be closed by the management reporting the facts to the General Chairman for his record, and this was done on April 2, 1938, and the Carrier does not understand 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.