

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Sidney St. F. Thaxter, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**GALVESTON WHARVES COMPANY**

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

(1) The Carrier violated the provisions of the current working agreement in changing the hourly wage rate of J. M. Hogan and others from 65 cents to 50 cents while assigned as pile driver men; and

(2) That J. M. Hogan and others similarly affected while assigned as pile driver men be reimbursed in the amount of 15 cents per hour for every hour assigned to service on the pile driver.

**EMPLOYES' STATEMENT OF FACTS:** From the effective date of the agreement of May 1, 1940, until April 22, 1941, there existed on the pile driver gang classification of foreman at a rate of \$175.00 a month, classification of engineer at a rate of 70 cents an hour, and classification of pile driver man at a rate of 65 cents an hour. The rate of 65 cents an hour was the agreed to rate for pile driver men. The rate placed into effect by arbitrary action of the Carrier April 22, 1941, was 50 cents an hour.

**POSITION OF EMPLOYES:** The agreement effective May 1, 1940, is by reference made a part of this claim, as it supports the Employees' position. We quote the following from this agreement:

"ARTICLE XXXV, RATES OF PAY. Rule 1. The rate of pay of employees covered by this Agreement shall become a part of and be included in this Agreement, and when new positions are established in the Maintenance of Way and Structures Department a suitable rate of pay for such new position or positions shall be negotiated."

The negotiated rates for pile driver employees were made a part of the agreement and provided for the following rates:

Pile Driver Foreman—\$175.00 per month.

Asst. Pile Driver Foreman—No rate was negotiated or agreed to for the reason that it developed during the course of the negotiation of the agreement that assistant foreman on pile drivers were not necessary, in the opinion of the Management, the Management taking this position on the ground that there would always be a foreman assigned to the pile driver and additional supervision would not be required.

Pile Driver Engineer—\$.70 an hour, which rate they have received since the effective date of the agreement up to and including September 1, 1941. The rate in effect at the present time is 80 cents an hour.

The rate provided for pile driver men in the rate sheet agreed to (photostat copy of which is attached) is \$.65 per hour and this is the only rate provided for this class of employees.

The Employees contend that the Carrier has violated the provision of the wage rate for pile driver men by placing into effect a rate less than 65 cents per hour. The rule above quoted clearly provides that rates for any new positions shall be negotiated and agreed to between the Carrier and the representative of the Employees before any rates other than those specified on page 16 of the agreement can be made applicable to employees filling these classifications.

The Employees earnestly request that your Board sustain this claim.

**POSITION OF CARRIER:** Claim of the System Committee of the Brotherhood that the Galveston Wharves violated the provisions of the agreement in changing the hourly wage rate of J. M. Hogan and others assigned as pile driver men.

Nothing is said in the contract that I can find defining pile driver men; however, the contract does class as mechanics all carpenters, painters, etc., except track foremen, in Section 1 of Article IV, Blacksmiths and helpers in Section 4, truck and tractor drivers in Section 5, tinnerns and helpers in Section 3; therefore, employees working on pile drivers would either be foremen, assistant foremen, engineers, pile driver men helpers or laborers, and in our opinion Mr. J. M. Hogan and others mentioned in this grievance were helpers to the mechanics on the pile drivers.

**OPINION OF BOARD:** In accordance with the agreement effective May 1, 1940 the rate of pay fixed for pile driver men was 65¢ per hour. The claimant was employed in that capacity and was paid the agreed rate until April 22, 1941 when the Carrier by unilateral action reduced the rate to 50¢. He claims that so long as he did the work of a pile driver man, and that means work on the pile driver except as foreman, assistant foreman, or engineer, he was entitled to be paid at the rate of 65¢. We feel that there is no doubt about it.

We should not attempt to decide the claims of other men who are not before the Board and whose exact status we do not know. This award may result in a settlement of their claims. If not they may bring them here in the usual manner.

**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 employees involved in this dispute are respectively carrier and employees 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 Carrier violated the agreement in reducing the pay of J. M. Hogan while engaged in work on the pile driver from 65¢ to 50¢ per hour.

#### AWARD

Claim of J. M. Hogan sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 5th day of April, 1943.