

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim as presented by the System Committee of the Brotherhood:

(1) That the Carrier violated Agreement in effect by contracting the work of making repairs on Bridges No. 20, 35, 6, 27-1, 24, 31, 31-2, HB546, 33, 34, and 28 on the Snoqualmie Branch, Tacoma Division, to outsiders who had no seniority rights in the Bridge and Building Department on the railroad;

(2) That J. O. Mickelson, Assistant B&B Foreman, shall be paid the difference in rate between what he received as Assistant B&B Foreman and that which he should have received as a B&B Foreman during the period that the contractor was engaged in connection with this work;

(3) That J. W. Morrison, First Class Carpenter, shall be paid the difference between what he received as First Class Carpenter and that which he should have received as Assistant B&B Foreman during the period that the contractor was engaged in connection with this work, and

(4) That Mike Mikell, Jerry Skarbini, H. V. Yandell, E. H. Montgomery, G. S. Johnson, James McMillen, A. E. Fisher, B. R. Cole, A. W. Ralph and Carl Johnson, Second Class Carpenters, shall be paid the difference in what they received as Second Class Carpenters and that which they should have received as First Class Carpenters during the period the contractor was engaged in connection with this work.

EMPLOYES' STATEMENT OF FACTS: On or about August 1, 1945 the Carrier contracted the performance of certain work in connection with repairing of Bridges 20, 35, 6, 27-1, 24, 31, 31-2, HB546, 33, 34, and 28 on the Snoqualmie Branch, Tacoma Division, to Morrison-Knudson, contractors. The contractor employed one foreman, one assistant foreman, and approximately ten carpenters in connection with this work. This repair work consisted of renewing frame bents, stringers, caps, ties, and other timbers used in the construction of these bridges, also, shifting steel girders and repairing concrete piers. All of this work is a class of work that has always been recognized as bridge and building work and performed by employees in the Bridge and Building Department. The contractor is still engaged in connection with this repair work.

Agreement effective August 1, 1943 between the Carrier and the Brotherhood is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: The Snoqualmie Branch is located on the Tacoma Division of the Northern Pacific Railway and extends from Woodinville, Washington, to North Bend, Washington, a distance of 35.9 miles.

The protest and claim of the Employees should be denied.

OPINION OF BOARD: On August 1, 1945, the Carrier contracted the performance of certain work in connection with the repairing of Bridges No. 20, 35, 6, 27-1, 24, 31, 31-2, HB546, 33, 34 and 28 on the Snoqualmie Branch, Tacoma Division, to persons outside the scope of the Maintenance of Way Agreement. The Organization contends that this was a violation of the current Agreement and asks that the employees designated in the claim be paid resulting wage losses because they were not used in higher rated positions to which they would have been entitled if the work had been performed by employees within the scope of the Agreement.

The record shows that the work was ordinary bridge and building work. The Carrier asserts that the work could no longer be deferred and necessary forces could not be spared from other essential work or be recruited for the performance of the work. The Carrier also states that regular employees lost no work because of the action of the Carrier in contracting the work. The Carrier also contends that the contracting of the work was permitted under the letter agreement of July 25, 1922 and the interpretation given thereto by the parties themselves.

The issues thus presented have been fully discussed and determined in Docket MW-3282, Award No. 3254, decided currently herewith. On the reasoning of that award we are obliged to decide that no basis exists for an affirmative finding.

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 parties waived oral hearing thereon;

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 current Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 10th day of July, 1946.