

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

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

(1) The Carrier violated the provisions of the effective agreement, when it assigned to an employe holding no seniority as a Water Service Mechanic, the work of repairing a water main at Lone Tree, on November 9, 1949;

(2) Water Service Mechanic J. G. Camwell, be allowed four (4) hours at the Water Service Mechanic's rate of pay because of this violation.

EMPLOYEES' STATEMENT OF FACTS: Rule 1, Group 3, Paragraph (b) of the effective agreement, provides as follows:

"(b) Water Service Mechanics: Mechanics whose work shall consist of the following: The installing, dismantling, and maintaining all pipe work and appurtenances thereto (above and below ground), such as pipe made of wood, wrought iron, steel, cast iron, brass tubing, well casing, lead, vitrified or any other class of pipe commonly used for the purpose of conveying water, steam, gas, oil and air. This at all roundhouses, shops, stationary power plants, boiler rooms, pump stations, oil stations, passenger stations, water tanks, freight houses, eating houses, car sheds, stock yards and car yards, including water cranes at all shops and station terminals and intermediate points."

On November 9, 1949, a leak developed in the Carrier's water line at Lone Tree, Iowa.

The Water Service Mechanic assigned to do the installing, dismantling, and maintaining of all water pipes in that area, was not called to make the repairs to the water line, but in lieu thereof, an individual employed by the City of Lone Tree, made the required repairs, and was so engaged for a period of four hours.

The Employees contended that Water Service Mechanic J. G. Camwell, the assigned Water Service Mechanic on this territory, should have been assigned to make the repairs.

that the conditions were as they were in this instance and that the work of repairing the leakage was completed in four hours by one man, we respectfully petition the Board to deny this claim.

It is hereby affirmed that all data herein contained is known to the employees' representative and is hereby made a part of this dispute.

OPINION OF BOARD: On November 9, 1949, Carrier's Agent at Lone Tree, Iowa, discovered a leak in the water pipe supplying the depot at that point. The leak was underground and resulted in the formation of a large mud hole on Carrier's property which was somewhat hazardous to vehicles operating in the immediate territory. The Agent hired an employee of the city to make the repairs. The Organization contends that the work belonged to the Water Service Mechanics and that the Agreement was violated when the work was assigned to one not under the Agreement.

There is no dispute in the record that the repair work here performed is within the Scope of the Maintenance of Way Agreement. The Carrier attempts to justify its action on the ground that an emergency existed. In this respect the record shows that the water service pipe sprung a leak during the night. The Agent observed it the next morning. A mud hole about one foot deep had formed. This was about ten feet from the depot on railroad property. Automobiles and trucks made use of the private road in going to and from a grain elevator and Carrier's ICL track. The evidence indicates, however, that use of the road could have been made irrespective of the condition created by the defective water pipe. We think that the Agent would have been justified in shutting off the water and in taking suitable precautions to alleviate any hazard which the mud hole presented by sign or barricade. But the emergency was not such that claimant could not have been called to perform the repair work when, as the record shows, it involved only three hours' delay. It does not seem to us that the situation was such an emergency as to require the repairs to be made at once. We do not think the situation here presented is such as would warrant the Carrier in disregarding its contractual obligations to the Water Service Mechanics.

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 Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 27th day of May, 1952.