

Award No. 6196  
Docket No. MW-6055

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

Thomas C. Begley, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**  
**THE DELAWARE AND HUDSON RAILROAD CORPORATION**

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

(1) That the Carrier violated the effective agreement when it required employees assigned to Mason Gang No. 5, to perform work usually and regularly performed by employees assigned to a Plumbing Gang and refused to compensate them at the rate of pay applicable to the work being performed;

(2) That the employees assigned to Mason Gang No. 5, during the period October 27, 1947 to November 10, 1947, both dates inclusive, be paid the difference between what they were paid and what they should have been paid at the respective plumber and plumber helper rates of pay, because of the violations referred to in part (1) of this claim.

**EMPLOYEES' STATEMENT OF FACTS:** Beginning on October 23, 1947, the entire personnel of Mason Gang No. 5, were assigned to perform work in connection with a steam line, which was being laid to the new washroom at Oneonta, New York. Only one plumber was assigned to perform any work in connection with the above project and he was exclusively assigned to welding the required sections of pipe.

The Mason Gang performed all other work in connection with the installation of the new steam line.

Under date of October 30, 1947, the Employees' Local Chairman addressed the following letter to the Carrier's Division Engineer:

"October 30, 1947

Mr. R. S. Gutelius,  
Division Engineer,  
Delaware and Hudson R.R. Corp.,  
Oneonta, N. Y.

Dear Sir:

On October 23, 1947, Mason Gang No. 5 were assigned to handle pipe in connection with a steam line being laid to the new wash room at Oneonta Ash-pit.

Normally it would have been the duty of plumber helpers to have set up pieces of pipe so that the pieces could be welded by the plumbers and, likewise, the lowering of the welded pieces into the excavation would have been the duty of the plumber helpers. As all the plumber helpers assigned to the division at that time were then engaged in their regular duties, with the exception of November 10, 1947 when a plumber helper worked with the plumber, the Carrier used the entire mason gang to act as plumber helpers. This mason gang did not perform any plumbers' duties, simply plumber helpers' duties.

At the time this service was performed the plumber helper rate was \$1.11 per hour as compared with the mason helper rate of \$1.08 per hour. The mechanics in Mason gang No. 5 were not affected in a wage loss as none of them did any work other than that of acting in the place of plumber helpers at their own mechanic's rate which was higher than the plumber helper's rate.

Carrier has offered to adjust the earnings of the mason helpers so that they would receive the same rate as the plumber helpers. Committee, however, has presented this claim that each employ of the mason gang, mechanics and helpers, receive the plumber's and plumber helper's rate regardless of the duties performed.

It is the Carrier's contention that the mason gang was required to perform only the duties of plumber helpers and not plumbers. Such being the case, the mechanics of Mason Gang No. 5 are not entitled to the plumber's rate and the Board is respectfully requested to deny this claim.

Management affirmatively states that all matters referred to in the foregoing have been discussed with the Committee and made part of the particular question in dispute.

**OPINION OF BOARD:** The record discloses that the Carrier has offered to apply the terms of Composite Service Rule 18 to helpers involved in this claim by allowing the plumber helper rate in lieu of the helper rate already paid and that portion of this claim will be sustained to that effect.

As to that portion of the claim wherein carpenter and masons claim plumbers' hourly rate in lieu of hourly rate already paid, the record does not furnish sufficient facts on which a decision can be reached. Accordingly, that portion of this claim is remanded to the property for a joint check to determine the amount of actual plumbing work which was performed by the claimant carpenter and masons and that payment shall be applied in accordance with the Composite Service Rule 18. The joint check to be made within 30 days from the receipt of this award and payment due, if any, to be made within 60 days of this award.

**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.

**AWARD**

Case is remanded for disposition in accordance with the above Opinion and Findings without prejudice of right of either party to resubmit the dispute, if not adjusted.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

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

Dated at Chicago, Illinois, this 30th day of April, 1953.