

Award No. 6492
Docket No. MW-6359

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

SOUTHERN RAILWAY COMPANY

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

(1) The Carrier violated the agreement when it assigned to individuals having no seniority under the agreement, a portion of the work of erecting and installing two cross-over bridges at the 20th Street Freight House, Birmingham, Alabama;

(2) Bridge and Building Foreman C. L. Hammack, Bridge and Building Mechanics J. O. Simpson, R. L. Barnes, A. W. Butts, Bridge and Building Helpers E. O. Cox, A. C. Mauk, Percy Porter and Bridge and Building Laborers A. C. Clark and Willie Lewis be allowed pay at their respective straight time rates for an equal proportionate share of the total man-hours consumed by individuals holding no seniority under the effective agreement in performing the work referred to in part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: Prior to March 26, 1951, two wooden rampways were used at the Carrier's 20th Street Freight House, Birmingham, Alabama, to permit the passage of small hand and motor trucks across the three tracks which separated two of the freight-house buildings.

The wooden rampways were not wholly satisfactory, consequently, the Carrier decided to replace them with cross-over bridges. For these specific locations, the Carrier decided to install electrically operated vertical-lift cross-over bridges.

The Carrier then entered into a contract with the Link Belt Company to fabricate the various steel parts of the cross-over bridge at the factory and to thereafter ship the fabricated parts to Birmingham. The contract further specified that the Link Belt Company would assemble and erect the fabricated parts at the 20th Street Freight House.

The Carrier assigned its Terminal Bridge and Building crew to construct the concrete foundations and pedestals that were required as an integral part of the cross-over bridges.

The Carrier also furnished a Carrier-owned crane which was operated by an employee of the Carrier. No other equipment was used in the erection of

All relevant facts and arguments involved in the dispute have heretofore been made known to the employe representatives.

Carrier, in making response to the notice of the Third Division of the Adjustment Board, without having seen the Brotherhood's statement of facts and position, undertaking to meet the issues raised in handling of the claim on the property, reserves the right, after having seen and studied the petitioner's submission, to present such additional evidence and written or oral argument as to it may seem appropriate or necessary for a complete presentation of the case.

(Exhibits not reproduced).

OPINION OF BOARD: In our Awards No. 5304 and 5563, involving the same parties, we analyzed our awards and set forth the general rules for determination of claims of this character. They need not be repeated here.

Here the Carrier contracted with the Link-Belt Company for the design, manufacture and installation of two motor-powered vertical-lift crossover bridges at the Birmingham freight house. The same contractor had previously designed, manufactured and installed two such crossover bridges at Carrier's Atlanta facilities.

We are bound to recognize that the installation of a specially designed and specially manufactured mechanical device such as these crossover bridges is an entirely different sort of undertaking than the construction of a track, building or bridge from the basic materials required, i.e., brick, lumber, cement, rails, ties, girders, and etc.

We think that, under the rules set forth in Awards No. 5304 and 5563 and based on the evidence here presented, the work here involved must be considered as unusual or novel and not contemplated by the scope of the agreement between the parties.

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 Employes involved in this dispute are respectively Carrier and Employes 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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 16th day of February, 1954.