



Award Number 17599

Docket Number MW-18273

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Gladden, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
MISSISSIPPI EXPORT RAILROAD COMPANY**

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

- (1) The Carrier violated its agreement with the Brotherhood of Maintenance of Way Employees when it failed and refused to increase its section laborers' and drawbridge tenders' rates of pay by two and one-half (2 1/2) per cent effective January 1, 1968.
- (2) Each of the Carrier's section laborers and bridge tenders be reimbursed for the amount of monetary loss suffered as a result of the violation referred to within Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The claimants are regularly assigned as section laborers and drawbridge tenders by this Carrier and they are hourly-rated employees.

On March 22, 1967, the parties to this dispute consummated a Memorandum of Agreement reading:

"MEMORANDUM OF AGREEMENT

between

THE MISSISSIPPI EXPORT RAILROAD COMPANY

and its employees represented by

THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

In the settlement of the dispute resulting from the Employees' formal notice served upon the Carrier on or about May 10, 1966, of their desire to revise and supplement all existing agreements with respect to wages, vacations, holidays and away from home expenses, as set forth in such notice, and formal notice dated November 14, 1966 for standard rates of pay, it is agreed:

1. That the parties hereto do hereby adopt and agree to apply the terms and conditions of the National Agreement signed in Washington, D. C., January 13, 1967, a copy of which is attached hereto and made a part hereof, to be applied in the same manner and to the same extent as though participants were originally parties to the attached agreement.

April 3, 1968

Mr. J. R. McGlaughlin, General Chairman
Brotherhood of Maintenance of Way Employees
Post Office Box 1342
Jackson, Tennessee

Dear Sir:

This will acknowledge receipt of your letter of March 27, 1968. Your claim for the additional rate of pay is respectfully declined, as it is not in accordance with the agreement of March 22, 1967.

If you will let me know when you will be in this area, I will try to arrange to meet with you and discuss this situation.

Sincerely yours,

Vice Pres. & Gen. Mgr.

TMvSJr:ew

cc: Mr. W. O. Carpenter
Mr. J. B. Bradnley
Mr. C. A. Stephenson
Mr. T. A. Steel

(Exhibits not reproduced)

OPINION OF BOARD: The dispute herein involves the application of wage increases to the employees specified in the claim under the provisions of Memorandum of Agreement executed on March 22, 1967, and which reads:

"MEMORANDUM OF AGREEMENT

between

THE MISSISSIPPI EXPORT RAILROAD COMPANY

and its employees represented by

THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

"In the settlement of the dispute resulting from the Employees' formal notice served upon the Carrier on or about May 10, 1966, of their desire to revise and supplement all existing agreements with respect to wages, vacations, holidays and away from home expenses, as set forth in such notice, and formal notice dated November 14, 1966 for standard rates of pay, it is agreed:

- "1. That the parties hereto do hereby adopt and agree to apply the terms and conditions of the National Agreement signed in Washington, D. C., January 13, 1967, a copy of which is attached hereto and made a part hereof, to be applied in the same manner and to the same extent as though participants were originally parties to the attached agreement.
- "2. That hourly and monthly rates will be increased 7-1/2¢ per hour effective April 1, 1967 and 7-1/2¢ per hour each three months thereafter (July 1st, October 1st and January 1st) until rates of pay of employees on the Mississippi Export Railroad equal rates of pay paid

same classes of employees on the Gulf, Mobile and Ohio Railroad in the vicinity of Lucedale, Mississippi, referred to as standard rates.'

"It being understood that it is the intent that none of the rates will be increased above the standard rates and in some classifications the rates of increase will not be as much as those specified above.

"Signed this 22nd day of March 1967 at Moss Point, Mississippi."

The national Agreement of January 13, 1967, provides in part:

"ARTICLE I—WAGE INCREASE

"Section 1. Effective January 1, 1967, all hourly, daily, weekly, monthly, and piece-work rates of pay in effect on December 31, 1966, for employees covered by this agreement will be increased in the amount of 5 per cent applied so as to give effect to this increase in pay irrespective of the method of payment. The increase provided for in this Section 1 shall be applied as follows:

"(a) Hourly Rates— ..

Add 5 per cent to the existing hourly rates of pay.

* * * * *

"Section 2. Effective January 1, 1968, all hourly, daily, weekly, monthly and piece-work rates of pay in effect on December 31, 1967, for employees covered by this Agreement will be increased in the amount of 2-1/2 per cent, applied so as to give effect to this increase in pay irrespective of the method of payment. The increase provided for in this Section 2 shall be applied in the same manner as provided for in Section 1."

It appears from the record before the Board that the Carrier increased the Claimants' rates of pay in the amount of five (5) per cent retroactive to January 1, 1967. There seems to be no dispute as to the increases of 7-1/2 cents per hour effective April 1, 1967, and each three months thereafter as provided for in Item 2 of the Memorandum of Agreement of March 22, 1967. The dispute concerns the application of the 2-1/2 per cent increase provided for in Section 2, Article I of the National Agreement of January 13, 1967.

To give effect to the National Agreement of January 13, 1967, and the Memorandum of Agreement of March 22, 1967, the Board finds that rates of pay for the Claimants in effect as of December 31, 1967, should have been increased 2-1/2 per cent effective January 1, 1968, as provided for in Section 2, Article I of the National Agreement of January 13, 1967, and then should also have been additionally increased 7-1/2 cents per hour effective January 1, 1968, under Item 2 of the Memorandum of Agreement of March 22, 1967, as the rates did not then equal rates of pay paid same classes of employees on the Gulf, Mobile and Ohio Railroad in the vicinity of Lucedale, Mississippi.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreements were violated as shown in Opinion.

A W A R D

Claim sustained as shown in Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November 1969.