

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY
COMPANY**

**THE CHICAGO, ROCK ISLAND & GULF RAILWAY
COMPANY**

(Frank O. Lowden, James E. Gorman, Joseph B. Fleming, Trustees)

STATEMENT OF CLAIM: "Claim of William Luxford, William Ruark, and Joe Petre, Bridge and Building Carpenters, Des Moines Division, that they be paid the difference between the rate of pay applicable to carpenter helpers, 50¢ per hour, and the rate applicable to second class carpenters, 58½¢ per hour, during the periods that they were classified as carpenter helpers but performing work of second class carpenters, to wit: William Luxford—from August 19 to October 18, 1936, inclusive; William Ruark—from August 19 to October 18, 1936, inclusive; Joe Petre—from October 8, 1936, to March 31, 1937, inclusive."

EMPLOYES' STATEMENT OF FACTS: "William Luxford was hired May 1, 1922 as a B. & B. helper. In 1927 he was promoted to second class carpenter and worked in that capacity until August 19, 1936. From August 19, 1936, until October 18, 1936, inclusive, he was classified and rated as B. & B. helper, but performed the same class of work that he had formerly performed as second class carpenter, and used the same mechanical tools.

"William Ruark was hired as second class carpenter in 1920, and worked in that capacity until August 18, 1936. From August 19 to October 18, 1936, inclusive, he was classified and rated as a B. & B. helper, but performed the same class of work that he formerly performed as second class carpenter.

"Joe Petre was hired as a B. & B. helper in 1923. In 1927 he was promoted to second class carpenter and worked in that capacity until August 18, 1936. From October 8, 1936, until March 31, 1937, inclusive, he was classified and rated as a B. & B. helper, but performed the same class of work that he had formerly performed as a second class carpenter."

POSITION OF EMPLOYES: "Rule 1, Group 1, of Agreement in effect between the Carrier and the Brotherhood, defining the work of employes in the B. & B. Department reads in part:

'(c-1) Mechanics, first-class: Mechanics who are capable of laying out work and working from plans, skilled in the erection of new

OPINION OF BOARD: The claim in this case is that the claimants involved performed the work of second class carpenters while classified and paid as helpers. The pertinent rules involved are:

"Rule 1, Group 1. (c-2) Mechanics, second-class: Mechanics capable of doing all rough carpenter, bridge and repair work.

"(d) Bridge and Building Helpers: Employees assigned to perform work generally recognized as helper's work and assisting mechanics in the performance of their work."

"Rule 44. TOOLS. The carriers will furnish the employees such general tools as are necessary to perform their work, except such tools as are customarily furnished by skilled workmen.

INTERPRETATION: In the case of tools furnished by skilled workmen it is the understanding that these are the personal property of the skilled workmen and are not for common use by any and all men in the gang.

A carpenter's helper should provide himself with a hammer, a hand axe, a cross-cut hand saw and a square, which is the minimum personal tools of a carpenter's helper. First and second-class carpenters are supposed to provide themselves with whatever additional tools are necessary to perform the class of work that they are supposed to do."

The employees contend that work performed was that of second-class carpenters. The carrier contends it was work generally recognized as helper's work.

The rules involved, or their equivalent, have been in agreements between the parties at least since November 1, 1927. As there is no evidence of a dispute between the parties as to their meaning, prior to the instant dispute, there must have been during this period a general common understanding as to what constitutes work generally recognized as helper's work.

This dispute grew out of the fact that as the result of force reduction second-class carpenters were compelled to take helper positions or be laid off. Claimants have seniority as second-class carpenters. In such cases it becomes of utmost importance to the employees affected that the proper relationship between the employees worked in the several grades in a bridge gang be preserved. Carrier could not, of course, lay off the higher graded employees, force them all into the helper class and then require these employees to perform work belonging to higher graded employees merely because they were competent to do the work. When forces are reduced carrier should maintain a proper relationship between the several grades of employees used in a bridge gang but where this is done employees have no complaint unless an employee is required to do work of a higher grade than for which he is receiving pay.

The record contains no evidence upon either matter mentioned above. The case should therefore be remanded to the parties for further handling and development of fact in line with this Opinion. In event agreement is not reached and the dispute is resubmitted the Board will require additional and specific evidence on the points mentioned in this Opinion.

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 case be remanded to the parties for handling in accord with above Opinion.

AWARD

Case remanded as indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 28th day of July, 1939.