

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

St. Clair Smith, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

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

"(a) That the Carrier erroneously paid R. R. Horning, Foreman and his men while they were assigned and required to perform the work of steel bridge workers during October, 1942; and

"(b) That the foreman be paid the difference between B. & B. Foreman's rate and the rate applicable to Steel Bridge Foremen and the employes comprising the gang be paid the difference between what they received and what they were entitled to receive at the rate of 85 cents an hour."

EMPLOYES' STATEMENT OF FACTS: During the month of October, 1942 the bridge and building crew of which Ralph R. Horning was in charge was instructed and assigned to dismantle steel structures at Bedford, Indiana.

The dismantling of the steel structures at Bedford was for the purpose of using the steel in the construction of a similar structure at another terminal point on the Carrier's line.

The dismantling was performed by bridge and building carpenters under the supervision of Ralph R. Horning, Bridge and Building Foreman. The work was directed by a steel structure inspector. Bridge and building gangs, in the performance of their duties, work directly under the Bridge and Building Supervisor.

The tools required and used by the employes performing the work were iron workers' tools, such as acetylene torches, cutters, used in cutting off rivet heads, punches for drifting out rivets. The duties performed were strictly those of structural steel workers and do not come within the classification of work performed by bridge and building carpenters.

The agreement in effect between the Carrier and the Brotherhood is by inference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: During the period October 12 to October 29, 1942 inclusive Division Bridge & Building crew, with Foreman Ralph Horning in charge, was assigned to the work of dismantling and loading for shipment the structural steel roof supports in the old machine, blacksmith, paint and boiler shops at Bedford, Indiana. This work was under the direct supervision of Chief Carpenter F. E. Galvin.

nection with this dismantling work, however, an Assistant Engineer, from the General Office in Chicago, assisted in the work only to the extent of marking the steel parts which were to be salvaged.

The Organization contends further that the tools required and used by the employes performing the work were iron workers' tools concerning which please be advised that while members of this crew were furnished wrenches particularly adaptable to the work involved in dismantling a portion of the buildings, they were not special tools inasmuch as some B. & B. crews are supplied with such wrenches as standard equipment, and other than those few wrenches, the tools used by the B. & B. crew were those ordinarily employed by them in performing B. & B. carpenter work.

In regard to the Organization's contention that the duties performed by the members of the B. & B. crew in dismantling the shop buildings were strictly those of structural steel workers, it will be realized that a great deal of the work necessary for the salvaging of the structural steel parts was in connection with dismantling of other parts of the building.

The attention of the Board is particularly directed to Rule 45-(c) of the current Maintenance of Way Schedule, reading:

"An Employe assigned to the erection, maintenance, or dismantling of steel bridges and to the performance of related bridge iron work, such as riveting and rivet heating, will be designated as a steel bridge worker."

It will be noted that a steel bridge worker is classified as an employe assigned to the erection, maintenance, or dismantling of **steel bridges or related bridge iron work** whereas in this case there was no work performed by the B. & B. crew in connection with steel bridges or related bridge iron work.

In contrast to the classification of a steel bridge worker, the carrier calls attention to Rule 45-(d) of the current Maintenance of Way Schedule, reading:

"An employe assigned to constructing, repairing, maintaining or dismantling bridges, buildings or other structures (except the work referred to in section (c) of this rule), or who is assigned to perform miscellaneous mechanic's work of this nature, will be designated as a bridge and building carpenter and/or mechanic."

It is the Carrier's position that the members of the B. & B. crew in this case were assigned to and performed work dismantling buildings as specified in Rule 45-(d) which properly classifies such employes as B. & B. carpenters and/or mechanics, and as employes in that crew were paid for the service performed rates of pay properly applying to B. & B. carpenters and mechanics, there is no basis for the claim submitted by the Organization and same should be declined.

OPINION OF BOARD: The question for decision is whether a bridge and building crew used to dismantle and load the structural steel roof supports of old shop buildings were entitled to the rate of pay set up for steel bridge workers. They were paid the rate established for Bridge and Building workers. The claim is for the difference.

The rules to be considered read as follows:

"**RULE 45. (c)** An employe assigned to the erection, maintenance, or dismantling of steel bridges and to the performance of related bridge iron work, such as riveting and rivet heating, will be designated as a steel bridge worker.

"**(d)** An employe assigned to constructing, repairing, maintaining or dismantling bridges, buildings or other structures (except the work

referred to in section (c) of this rule), or who is assigned to perform miscellaneous mechanic's work of this nature, will be designated as a bridge and building carpenter and/or mechanic."

It is the position of the employes that Rule 45 (c) supra applies because steel was handled and steel tools were used. The contention cannot be sustained. The plain language of Rule 45 (c) creates a class that deal not with the handling of structural steel in general, but specifically with those who handle structural steel in the erection, maintenance or dismantling of steel bridges or related bridge iron work.

From a separate consideration of the words of this rule it would appear that their sense must be distorted to expand their meaning so as to embrace the work in question. When they are read in connection with the broad sweep of the words of Rule 45 (d), that which appeared certain becomes doubly so. The contention is utterly untenable.

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 Carrier did not violate the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of February, 1944.