

Award No. 4512
Docket No. MW-4457

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
MISSOURI PACIFIC RAILROAD COMPANY

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

(1) That the Carrier violated the Agreement by assigning to the Mechanical Department forces at North Little Rock, Arkansas, the making of a screen door in February 1947, and a glass top panel door on April 18, 1947:

(2) That B&B Mechanic A. W. Garrett, North Little Rock, Arkansas, should be compensated at eight (8) hours pay at his regular Mechanic's rate because of the Carrier's improper action specified in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The Mechanical Department forces at North Little Rock, Arkansas in February 1947 made a screen door. Then again on April 18, 1947, the same Mechanical Department forces built a glass top panel door. Both the screen door and the panel door were for the office used by the Store Department in what is known as the Bolt Room at North Little Rock. These doors were put in place and hung by a B&B mechanic on April 21, 1947. There is a B&B carpenter shop located at North Little Rock. There are three B&B mechanics employed in this shop who are assigned to the making of window sash, door and similar mill work. The necessary equipment for the making of such doors and windows is contained in this shop.

The claimant, A. W. Garrett, is a member of this B&B gang who are located in this shop. Garrett is qualified as he has previously on occasions been assigned to the performance of this type of work.

The employees contend that Carrier violated the agreement by assigning the work described to the Mechanical Department forces. The Carrier has denied the claim.

The agreement in effect between the two parties, dated August 1, 1938 and its subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

POSITION OF EMPLOYEES: Rule 1—Scope of the effective agreement states as follows:

"These rules govern the hours of service and working conditions of all employees herein named in the Maintenance of Way Department and Sub-departments thereof (not including supervisory forces above the rank of foremen) as follows:

Carrier's mill room, and the Employees have cited no rule which has been violated.

What was done with respect to the door and screen was no different than if the storekeeper had purchased a door and screen from a local concern or had submitted a requisition and the General Purchasing Agent had purchased the same from some manufacturer or dealer. The B&B mechanic became interested only when he was called upon to make application of the door and the screen to the building. He performed that work because he was entitled to perform it as that is work which is generally recognized as work belonging to Bridge and Building employees.

It is further the position of the Carrier that what was done in this instance is no different than that which has been done for many years without complaint or protest from the Maintenance of Way Employees.

The Employees have not contended, and we do not think they can rightfully contend, that they be permitted to go into the mill room and take over the work which has been performed by another craft for a great many years.

The claim of the Employees is without merit and should be denied.
(Exhibits not reproduced.)

OPINION OF BOARD: The System Committee of the Brotherhood contends the Carrier violated its Agreement with them when it assigned to and had the Mechanical Department forces at North Little Rock, Arkansas, make a screen door and a glass top panel door for the office used by the Store Department in what is known as the Bolt Room. It asks that Claimant, B&B Mechanic A. W. Garrett of North Little Rock, be compensated, because thereof, for eight hours of pay at his regular rate.

The record shows that at North Little Rock the Carrier has a large shop used for the repair of cars and locomotives. In a part of this shop is a mill room equipped with the necessary machinery for doing mill work. When this mill room was established and equipped with machinery to do mill work is not shown by the record. The B&B Carpenter Shop at this point is not equipped with machinery to do mill work but only equipped with hand tools.

In February of 1947 the Mechanical Department forces (carmen), who were in charge of this mill room, made the screen door and, in April of the same year, the glass top panel door. Both of these doors were constructed on orders from the Store Department and were for the office used by the Store Department in what is referred to as the Bolt Room. When constructed they were turned over to B&B Mechanics who fitted and installed them on April 21, 1947.

From the record it is apparent that prior to the mill room being equipped to do mill work that when Carrier needed doors, windows and things of that nature, it would purchase them on the open market. Its right to do so is not here questioned. Since the mill room has been equipped to do this type of work it is generally being done there on orders from the Store Department. The question that arises in connection therewith is, is the construction of these doors work within the scope of the Carrier's Agreement with the Brotherhood?

Rule 1 of the Agreement, as far as here material, provides:

"These rules govern the hours of service and working conditions of all employees herein named in the Maintenance of Way Department and Sub-departments thereof * * * as follows:

(a) Bridge and Building Department:

* * *

Mechanics (carpenters and painters) helpers and laborers

* * *

- (c) all other employees performing work properly recognized as belonging to and coming under the jurisdiction of the Maintenance of Way Department."

This Scope Rule of the Agreement embraces all work on the Carrier's property of the kind and class which employees of the named positions included therein usually and customarily performed at the time of the negotiation and execution thereof. It included the work of repairing and maintaining the buildings.

While B&B employees have always fitted and installed doors and windows, when needed in connection with the repair and maintenance of Carrier's buildings, it appears that prior to the mill room being equipped for the construction thereof the Carrier usually and customarily purchased prefabricated doors and windows in the open market and delivered them to the B&B employees in that condition for the purpose of fitting and installing. No objection is made to that practice. After the installation of the equipment in the mill the fabrication or construction thereof was usually performed therein on orders from the Store Department. In either event the Scope of the Brotherhood's Agreement does not extend to the fabrication thereof but only to the fitting and installation, after they are delivered for that purpose. See Award 2548 of this Division. We do not find any violation of the Agreement by the Carrier.

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 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 5th day of August, 1949.