

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Mortimer Stone, 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 not assigning to B&B forces the painting of a traveling crane located at the rip track at North Little Rock, Arkansas, on March 29, 1947;

(2) That the B&B Mechanic D. F. Keesee and B&B Helper G. E. Keenzel be compensated 8 hours each at their respective rates of pay because of the violation of agreement referred to in part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: At the rip track at North Little Rock shop, Arkansas, the Carrier maintains a small traveling Gantry crane.

On or about March 29, 1947, this referred to crane was cleaned and painted by the Mechanical forces. The amount of time consumed by these Mechanical Department employees in the performance of this referred to work was approximately sixteen (16) manhours.

B&B Mechanic E. F. Keesee and B&B Helper G. E. Keenzel are regularly assigned B&B employees at North Little Rock. They were available on this referred to date and could have performed the work in question. Both these employees have made claim for eight hours pay each at their pro rata rate. The Carrier has declined the claim.

The Agreement in effect between the two parties to this dispute, dated July 1, 1938, and subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

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

“SCOPE: 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:

- (a) Bridge and Building Department:
 - Foremen
 - Assistant Foremen
 - Motor Car Operators in B&B Gangs
 - Water Service Foremen, Assistant Foremen, Repairmen, Helpers, Laborers and Pumpers
 - Motor Car Repairmen and Helpers
 - Mechanics (carpenters and painters), helpers and laborers.”

repair and maintain, or paint, shop machinery, and, therefore, there is no support for the claim in this instance and it should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim concerns the asserted right of B&B forces to paint a traveling crane and for penalty compensation for permitting carmen to paint it. The Committee asserts that the crane is an outdoor structure coming within the scope of their Agreement and properly maintained by them. The Carrier asserts that it is shop machinery and therefore properly maintained by the mechanical forces.

The crane is a comparatively small Gantry type affair, made by the carmen, and equipped with two motors, both operated from the ground, one for propelling the crane and the other for lifting and moving. Its capacity is limited to handling one pair of car wheels and it is used by the carmen for distributing and setting in place car wheels, draw bars and other such heavy items along the two car repair tracks between which it travels.

This crane was made by the carmen; it is part of the machinery of their car repair work, and since its construction in 1929, has been maintained and painted annually by carmen, and we conclude properly so.

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 Agreement was not violated.

AWARD

Claims (1) and (2) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of March, 1950.