

Award No. 10028
Docket No. MW-8552

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, 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 that:

(1) The Carrier violated the effective Agreement on March 15 and 16, when it assigned other than water service forces to dig a ditch for installation of a water line to Repairman's Shop, Concordia, Kansas;

(2) Water service Repairman Helper John McKinney be allowed forty (40) hours straight-time pay account of deprived of the opportunity of performing the work referred to in part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: Bridge and Building Department Water Service Foremen, in charge of the respective classes of employees assigned to their gangs, which includes the classification of Water Service Repairmen Helpers, have charge of and are responsible for the safe, economical, and efficient operation of pumping and treating plants and must know that employees who maintain and operate such plants under their jurisdiction, are properly instructed, qualified to do the work assigned them, and are faithfully performing their respective duties. They shall have and be familiar with current rules, regulations, instructions, and local laws governing their class of work.

They are also in charge of and responsible for the safe, economical, and efficient installation, repairs, and maintenance of:

(a) Water and diesel oil supply, pumping and treating plants including wells, tanks, water columns, and pumps. Steam, gasoline, distillate and gas engines or other power units used for operating pumps (except when power is furnished from a central power plant). All other facilities, appurtenances, and appliances used in the operation of such plants.

(b) Gasoline, gas, distillate, fuel, diesel, and other oil handling facilities.

(c) All pipe lines used for conveying water, oil, gas, steam, and air.

(d) Locomotive washout plants.

There is no Agreement requirement or authority for the payment of this claim.

OPINION OF BOARD: The Claimant in this case, John McKinney, is the same one who presented the claim disposed of in our previous Award 10027.

On March 15, and 16, 1955, the Carrier assigned Section Laborers to dig a ditch for the installation of a water line to the Repairman's Shop at Concordia, Kansas. After the ditch had been dug, the pipe line was laid by the Water Service employes and thereafter the same laborers were used to back-fill the ditch. Except for the fact that Claimant McKinney was working on March 15, and 16, 1955 and the work here in question was at a different place, the circumstances surrounding this claim are substantially the same as those set forth in Docket 8551 and disposed of in Award 10027.

It is agreed that the claims in the two cases are essentially the same as to the merits, and should be disposed of in the same manner. Having found no violation of the Agreement in the previous instance and no greater degree of proof being presented by Claimant in this case, this claim must also be denied. See Awards 6269, 6007, 7338, 7387, 9001, and particularly our previous Award 10027.

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 Employee involved in this dispute are respectively Carrier and Employee 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

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 4th day of August, 1961.