

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19324  
Docket Number MW-19293

Gene T. Ritter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes  
(Delaware and Hudson Railway Company

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

(1) The Carrier violated the Agreement when it assigned a plumber foreman and three (3) plumbers to perform carpenter work in connection with making repairs to an overhead door in Shop 18 at Oneonta, New York on June 24, 1969 (Case No. 3.70 MW).

(2) Carpenter Foreman Francis M. Reilly be allowed two (2) hours' pay and Carpenters Clayton G. Utter, Claude L. Dexter and Raymond Robinson each be allowed six (6) hours' pay at their respective straight time rates because of the violation referred to within Part (1) of this claim.

(3) The Carrier shall also pay the claimants six percent (6%) interest per annum on the monetary allowances accruing from the initial claim date until paid.

OPINION OF BOARD: On June 13, 1969, Carrier assigned B & B forces to make temporary repairs to a steel slat <sup>rolling</sup> ~~rowing~~ door at Shop 18, Oneonta, New York, that had been damaged by a switch engine earlier that day. On June 24, 1969, a Plumber Foreman and three Plumbers were assigned to make permanent repairs to the door. Claimants are all members of B & B Force. Claimants were available and qualified to have performed this work. Award 4845 (Carter) confirms Claimant's position in this case. On the basis of said Award, Claimants were entitled to perform the involved work. Carrier, not having proved that this work could not have been performed on overtime or by re-scheduling work, is also liable for damages as claimed in Part 2 of this claim. However, Carrier is not liable for the interest claimed in Part 3 of this claim.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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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 violated in accordance with the Opinion.

A W A R D

Part 1 of this claim - sustained.  
Part 2 of this claim - sustained.  
Part 3 of this claim - denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST:

E. A. Fallon  
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.