

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 25386
Docket Number MW-24648

W. S. Coleman, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Burlington Northern Railroad Company
((former St. Louis-San Francisco Railway Company)

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

(1) The Agreement was violated when, on September 2 and 24, 1980, five (5) Track Department employes were used to perform Bridge and Building Department work on Bridges C589-4 and C590-8) (System File F-11840/MWC 81-4-1B).

(2) The Agreement was also violated when, on January 5, 1981, Track Department employes (Gang 304) were used to perform Bridge and Building Department work on Bridge 52.5 (System File B-922/MWC 81-6-2).

(3) Because of the violation referred to in Part (1) hereof, furloughed Bridge and Building Department employes R. C. Gann, D. R. Carter and C. J. Blake each be allowed an equal proportionate share of the thirty-five (35) man-hours expended by Track Department employes in performing the work referred to in Part (1) hereof.

(4) Because of the violation referred to in Part (2) hereof, Track Foreman M. O. Naumann shall be allowed the difference between what he was paid at the Track Foreman's rate and what he should have been paid at the B&B Foreman's rate and Trackmen C. B. Eaton, G. F. Bahr, G. E. Leutzinger, M. Kozma, T. R. Fallert and L. J. Willet shall each be allowed the difference between what they were paid at the trackman's rate and what they should have been paid at the B&B Helper's rate for five (5) hours for January 5, 1981.

OPINION OF BOARD: On September 2 and 24, 1980, Carrier used a Foreman and four Laborers (members of Track Gang 201) to spike-line rail on Bridges C589-4 and C590-8. Each member worked a total of seven hours on both bridges. The Organization maintains that such work is reserved to Bridge and Building Sub-department employes under Rule 29 of Article 3 and that furloughed Bridge and Building Department employes Gann, Carter, and Blake should be allowed an equal proportionate share of the thirty-five (35) man-hours expended.

Rule 29 reads as follows:

"Work on bridges, or that portion of bridges, which have wooden substructures below the caps is work which belongs to the B&B Sub-department. Steel bridge crane operator may, however, be used to drive bridge piling of any type."

On January 15, 1981, seven members of Track Gang 304 were used by Carrier to spike-line rail on Bridge 52.5. They worked a total of five hours on the project. The Organization contends that the Foreman (Naumann) and the trackmen assigned to the gang (Claimants Eaton, Bahr, Leutzinger, Kozama, Fallert, and Willet) performed duties of a B&B foreman and B&B helpers and should therefore be compensated at the appropriate rates required by Rule 70 (a):

"(a) An employe working on more than one class of work, on any day, will be allowed the rate applicable to the character of work preponderating for the day, except that when temporarily assigned by the proper officer to lower rated positions, when such assignment is not brought about by a reduction of force or request or fault of such employe, the rate of pay will not be reduced."

The Board has carefully reviewed the record of this case and must conclude that both parts of the claim should be denied. Organization has failed to demonstrate that, by tradition or by contract, the disputed work is work belonging to bridgemen. At the same time, it does not refute, by citation or example, Carrier's contention that spiking and lining rail on a bridge is work that has been performed by both trackmen and bridgemen, as the need arose. Since Organization has failed to carry its required burden in this instance, we shall deny the 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;

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 Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 15th day of April 1985.