

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

**Award No. 36616
Docket No. MW-34917
03-3-98-3-644**

The Third Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood of Maintenance of Way Employes
(Soo Line Railroad Company

STATEMENT OF CLAIM:

“Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when the Carrier failed and refused to compensate Messrs. R. D. Iwen, G. D. Day, J. M. Engebregsten and M. C. Trousil at the appropriate Bridge and Building (B&B) Sub-department steel bridge rates of pay for the work they performed on Bridge 120.23 in the Glenwood, Minnesota Yard on May 20, 1997 (System File R1.157/8-00320-001).**
- (2) The Agreement was violated when the Carrier failed and refused to compensate Messrs. R. D. Iwen, G. D. Day, J. M. Engebregsten and A. D. Launderville at the appropriate B&B Sub-department steel bridge rates of pay for the work performed on Bridge 82.76 on the Paynesville Subdivision during the month of June 1997 (System Files R1.150 and R1.151/8-00320-003).**
- (3) The Agreement was violated when the Carrier failed and refused to compensate Messrs. R. D. Iwen, J. M. Engebregsten and A. D. Launderville at the appropriate B&B Sub-department steel bridge rates of pay for the work performed on Bridge 120.23 in the Glenwood, Minnesota Yard on July 23, 1997 (System File R1.186/8-00320-002)**
- (4) As a consequence of the violation referred to in Part (1) above, the Claimants shall each be paid the difference between the four (4) hours, straight time and one-half (.5) hour's time and one-half**

rate of pay they received and the appropriate steel bridge rates of pay they were entitled to for that period of time.

- (5) As a consequence of the violations referred to in Part (2) above, Claimant R. D. Iwen shall be allowed the difference between the fifty (50) hours', straight time pay he received and the steel bridge foreman's rate, Claimant G. D. Day shall be allowed the difference between the fifty-five (55) hours, pay he received and the steel bridge assistant foreman's rate, Claimant J. M. Engebregsten shall be allowed the difference between the fifty-five (55) hours' pay he received and the appropriate steel bridge worker's rate and Claimant A. D. Launderville shall be allowed the difference between the forty-seven (47) hours' pay he received and the steel bridge worker's rate and all overtime, vacation, fringe benefits and other rights restored which were lost to them as a result of the Carrier's actions.
- (6) As a consequence of the violation referred to in Part (3) above, the Claimants shall each be allowed the difference between the five (5) straight time hours' pay they received and the appropriate steel bridge rates of pay they were entitled to for that period of time."

FINDINGS:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

Claimant R. D. Iwen established and holds seniority as a B&B Foreman, Claimant G. D. Day established and holds seniority as an Assistant B&B Foreman, Claimant J. M. Engebregsten established and holds seniority as a B&B Carpenter and Claimants M. C. Trousil and A. D. Launderville established and hold seniority as Truck Operator in the Bridge and Building Subdepartment. In the instant claims, these Claimants assert that the Carrier violated Rule 2 Classification of Work, Rule 3 Seniority Sub-department Limits and Rule 33 Composite Service when it failed and refused to compensate them at the higher Group 2 rate of pay for certain work they performed in dismantling and repairing steel bridges during May, June and July 1997.

The Agreement Rules cited by the Organization in support of the claims read, in pertinent part, as follows:

"RULE 2 CLASSIFICATION OF WORK

* * *

- (g) An employe assigned to the setting of columns, girders, beams, trusses, and in the general structural steel erection, maintaining or dismantling of steel in bridges and buildings requiring cranes or derricks in their erection or dismantling, and in the performance of related bridge and building iron work, such as riveting and rivet heating and bolting, is classified as a steel bridge worker.

When there is steel assembling and erection work to be done which cannot under ordinary conditions be performed by the regular Bridge and Building crews, a special steel crew of men qualified for this work may be organized to carry out such work.

* * *

- (h) An employe assigned to construction, repair, painting, maintenance, or dismantling of buildings, bridges, or other structures (except the iron or steel work), including the building of concrete forms, erecting false work, etc., or who is assigned to

miscellaneous mechanic's work of this nature, is classified as a bridge and building carpenter.

RULE 3 SENIORITY SUB-DEPARTMENT LIMITS

(c) The Bridge & Building Sub-department comprises the following:

<u>Group</u>	<u>Rank</u>
1.	(a) Foremen (b) Assistant Foremen (c) Truck Operators (d) Carpenters, Riggers (e) Drawbridge Tender
2.	(b) Assistant Steel Bridge Foreman (c) Steel Bridge Workers (Mechanic)

* * *

RULE 33 COMPOSITE SERVICE

- (a) An employe working one hour or more on higher rated work, coming within the scope of this Agreement, will receive the higher rate for the actual time worked. If used four hours or more for such higher rated work on any day, will be allowed the higher rate of pay for the entire day. When temporarily assigned to a lower rated position his rate of pay will not be reduced."

The Parties do not dispute the fact that employees holding seniority and/or performing iron or steel work within Group 2 of the B&B Subdepartment are entitled to a higher rate of pay than those in Group 1 of the B&B Subdepartment, in accordance with Appendix H of the Agreement. On May 20, 1997, B&B Foreman Iwen, Assistant B&B Foreman Day, B&B Carpenter Engebregsten and Truck Operator Trousil were assigned by Structures Supervisor C. E. Phillips to perform the work of removing a steel span from Carrier Bridge 120.23 located on the new main track in the Carrier's rail yard at Glenwood, Minnesota. The work of dismantling and removing that steel span from Bridge 120.23 included cutting the

bolts and braces to properly remove the span. During the month of June 1997, Claimants Iwen, Day, Engebregsten and Launderville were assigned to and performed the work of changing gusset plates, installing lateral bracing, removing loose rivets and replacing those rivets with hytensil bolts on Bridge 82.76 on the Paynesville Subdivision. On July 23, 1997, Claimants Iwen, Engebregsten and Launderville continued performance of the work of removing steel spans from Bridge 120.23 on Old Main Track and Passing Track in the Glenwood Yard at Glenwood, Minnesota.

For the time they expended in performing such work on these steel bridges in May, June and July 1997, the Carrier compensated the Claimants at the Group 1 rate. In the instant claims, they assert their entitlement under Rule 33, supra, to the higher Group 2 rate. We are persuaded that these claims are well-founded in the facts of record and in the clear contract language. The Agreement describes the character of the steel work for which the Agreement provides a special higher rate of pay and the record shows that the structural steel dismantling and replacement work performed by the Claimants in this case plainly fell within the description of "dismantling of steel in bridges . . . and related bridge and building iron work, such as riveting and rivet heating and bolting."

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division**

Dated at Chicago, Illinois, this 29th day of July 2003.