

PUBLIC LAW BOARD NO. 3460

Award No. 72

Case No. 72

PARTIES Brotherhood of Maintenance of Way Employees
TO and
DISPUTE: Burlington Northern Railroad Co.

STATEMENT
OF CLAIM:

- "1. The Carrier violated the Agreement when it assigned the Twin City Region Steel Erection Crew to paint Bridge Nos. 72.3 and 13 on Seniority District No. 13 during April and May of 1983.
2. As a consequence of the above-described violation: (a) the members of B & B Crew No. 324-020, B & B Foreman C. F. Litzinger, First Class Carpenter D. A. Goeringard, L. C. Helvick, Helper R. O. Brokken and Truck Driver E. Halberson shall each be allowed compensation at their respective straight time rates for an equal, proportionate share of the six hundred and eighty (680) hours expended by the Steel Erection Crew painting Bridge No. 72.3; (b) the Members of B & B Crew No. 24-008, B & B Foreman F. W. Neuschwander, First Class Carpenter D. K. Hamel, Second Class Carpenter R. Fields, Helper J. T. Hagen and Truck Driver M. E. Duden shall be allowed compensation at their respective straight time rates for an equal, proportionate share of the two hundred and eighty (280) hours expended by the Steel Erection Crew painting Bridge No. 13."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

Claimants herein all maintain seniority within the Bridge and Building Sub-Department of Carrier. The dispute herein was triggered by Carrier assigning the Twin City Region Steel Erection Crew the task of preparing, sand-blasting and painting certain bridges in April and May of 1983. Paragraph 55 I of the Schedule Agreement, relating to steel bridge and building work, provides as follows:

"Steel Bridge and Building Mechanic. An employee assigned to the setting of columns, beams, girders, trestles, or in the general structural erection, replacement, maintaining or dismantling of steel in bridges, buildings and other structures and in the performance of related bridge and building iron work, such as riveting and rivet heating shall be classified as a Steel Bridge and Building Mechanic."

Petitioner, while agreeing that the Steel Erection Crew could be used to repair bridges, indicated that it could not used solely to paint such structures. According to the Organization, such work was reserved for Carpenters and Helpers in the Bridge and Building Sub-Department, or to painters.

Carrier's Superintendent, Mr. Grimstad, in a letter dated August 5, 1983 in response to the claim, informed the Organization that "paint records retained by Steel Erection Crew Foreman indicate that the Steel Erection Crew has painted bridges before merger, on former Great Northern Territory and, after merger, on Burlington Northern Seniority Districts No. 11, No. 12, No. 13 and No. 14...." Carrier argues that there is nothing in Rule 55 which would allow employees who are members of other departments of the

Maintenance of Way Group or the Steel Erection Crew exclusive rights to the particular work. Thus, according to Carrier, painting of steel bridges could be performed by the members of the Steel Erection Crew, or painters, or members of a B & B Crew.

Rule 55 I, as the Board views it, indicates that members of the Steel Erection Crew have a number of functions to perform on structures such as steel bridges. Included in those functions is responsibility for maintaining the bridges and, obviously, painting is part of such maintenance. Thus, Rule 55 clearly does not preclude the use of the Steel Erection Crew in doing the particular type of work in contention. As the Board views it, there is nothing in the Rule, or in the past history, to justify the claim herein. There is no rule which limits the painting work to particular members of the B & B Group or painters. The Steel Erection Crew as well as other members of the Maintenance of Way Group can be used to do the particular type of work. In fact, this issue was addressed in Award No. 17 of this Board which dealt with a closely related issue. As was said in that Award, there is nothing in the Agreement, or in past practice, which permits exclusive rights to bridge repair work to be vested in Steel Erection Gangs. In fact, we specified that Carpenters, as well as Steel Erection Crews, could be used to repair bridges. This case and dispute is analogous to that in Award No. 17. For the reasons indicated in that Award, as well as the basic material contained in the record of this dispute, it is clear that Carrier's

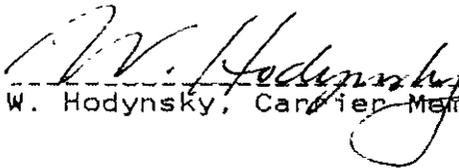
assignment did not, per se, result in any violation of the Agreement. The claims must be denied.

AWARD

Claims denied.



I. M. Lieberman, Neutral-Chairman



W. Hodynsky, Carrier Member

St. Paul, Minnesota
~~August~~ , 1988



F. H. Funk, Employee Member

9/20/88