

Award No. 25
Case No. 80

Public Law Board No. 2778

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees
and
Baltimore and Ohio Railway Company

STATEMENT
OF
CLAIM:

Claim of B&B Foreman J. D. Jewell and B&B Carpenters A. Clary, J.E. Coran and R.E. Smith for a total of 210 hours on May 1, 2, 3 and 5, 1978 on account of Tunnel Force grouting Bridge 12-38 at Wilmington, Ohio.

FINDINGS:

Claimants are B & B employees. They were assigned to install a 30-inch pipe and grout the arch of Bridge 12-38 at Wilmington, Ohio. The work was interrupted by cold weather. When conditions permitted resumption of the work, a tunnel force was used to complete the job while claimants were assigned to make steel repairs on Bridge 41-62 at Cuba, Ohio. There is no evidence that claimants lost any pay or were subjected to undue inconvenience by reason of the assignment change.

The work in question consisted of concreting the end of the arch by using a pressure tank, the gunite method by securing the grouting.

It is Petitioner's position that the work of grouting bridge 12-38 belonged to claimants under Rule 1(c) of the applicable agreement. Petitioner states that the gunite method involves spraying by machine a mixture of sand and concrete on the walls and overhead of bridges and tunnels.

Rule 1(c) reads as follows:

"Carpentry, painting, glazing, tinning, roofing, plastering, brick laying, paving, masonry and concreting required in the construction and maintenance of railroad structures, other than tunnels, shall be performed by the B&B forces. Such work in tunnels and all concreting by the gunite method shall be performed by tunnel forces."

Since "all" concreting by the gunite belongs to tunnel forces, it was not incompatible with the terms of the Agreement (which incidentally covers tunnel as well as B&B forces) for Carrier to assign the disputed work to tunnel employees.

The Petitioner's contention that the tunnel force would have had to build forms to secure the grout is not supported by competent evidence, although the burden of proof rests with Petitioner. Carrier maintains, and has submitted evidence, that the tunnel force secured the concrete by placing and stacking sand bags at each end of the arch of the bridge.

There is no basis in this record for sustaining this claim.

AWARD:

Claim denied.

Adopted at Baltimore, Md., *February 22*, 1984.



Harold M. Weston, Chairman



Carrier Member



Employee Member