

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT

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

(1) The Carrier violated the Agreement on August 21, 22, 23, 24, 27, 28, 29, 30, 31, September 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, October 1, 2, 4, and 5 when it assigned or otherwise permitted other than employees holding seniority within the scope of Carrier's Agreement with the Brotherhood of Maintenance of Way Employees to install a retainer wall for placement of fire brick in the new boiler room of the Power House at Ewing Avenue Shops, St. Louis, Missouri.

(2) The decision of Assistant General Manager Elledge, dated June 3, 1957, in response to the appeal presented to him under date of March 25, 1957, was not within the time limits stipulated within the provisions of Article V of the Agreement of August 21, 1954 and said decision was therefore null and void.

(3) The claim as initially presented under date of November 26, 1956 and as presented on appeal to Mr. Elledge, now be allowed because of the violations referred to in parts (1) and (2) of this claim.

FINDINGS: The claim was dated November 26, 1956 and after being declined was appealed to the Assistant General Manager on March 25, 1957. He did not decline the claim on appeal until June 3, 1957, which is beyond the 60-day time limit for declination provided by the provisions of Article V, Section 1 of the agreement of August 21, 1954. In accordance with those provisions the claim must be allowed.

It is noted that many of the dates for which claim is made are more than 60 days prior to the date claim is filed. In this connection Section 3 of the same article contains a provision as follows:

"However, no monetary claim shall be allowed retroactively for more than 60 days prior to the filing thereof."

That provision clearly modifies the language preceding it and limits the time for retroactive pay claims without regard to the method of manner of allowance. Accordingly the claim can be sustained only to the extent of allowance of the monetary claims arising within 60 days preceding November 26, 1956.

AWARD: Claim sustained to the extent stated in the findings.

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(s) Dudley E. Whiting

Dudley E. Whiting - Chairman

(s) A. J. Cunningham

A. J. Cunningham - Employee Member

(s) G. W. Johnson

G. W. Johnson - Carrier Member

St. Louis, Missouri
June 4, 1959