

AWARD NO. 92
Docket No. 92

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT

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

1. The Carrier violated the effective Agreement by assigning to persons outside the Scope of the effective Agreement the work of repairing and maintaining station trucks at the State Line Freight House, Kansas City Terminal on January 29, 1960.

2. The senior furloughed B&B Mechanic on the Kansas City Terminal Division be now compensated for 8 hours pay at his respective pro rata rate for each day beginning January 29, 1960 and continuing until this violation of Agreement ceases.

FINDINGS: The Carrier contends that the claim should be dismissed as invalid under the provisions of Article V, Section 1(a) of the National Agreement of August 21, 1954, because no employe is named therein. That objection was not raised in handling the claim on the property. By its handling of the claim solely on the basis of its merit, the Carrier must be deemed to have waived that procedural requirement.

It is clear that for many years the repair and maintenance of station trucks performed at the State Line Freight House in Kansas City were assigned to B&B mechanics. Under the National Railroad Adjustment Board awards interpreting scope rules similar to that in this Agreement, such long consistent assignment of specific work at a particular location precludes the Carrier from assigning it to someone outside the scope of the Agreement at that location.

It appears improbable that such work was performed every day, so the claim will be sustained only for the days on which it was performed.

AWARD:

Claim sustained to the extent stated in the Findings.

SPECIAL BOARD OF ADJUSTMENT NO. 279

(s) Dudley E. Whiting

Dudley E. Whiting, Chairman

(s) A. J. Cunningham

A. J. Cunningham, Employe Member

(s) G. W. Johnson

G. W. Johnson, Carrier Member

St. Louis, Missouri
October 30, 1962
File 247-3848