

SPECIAL BOARD OF ADJUSTMENT NO. 285

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
vs.  
READING COMPANY

STATEMENT OF CLAIM:

1. The carrier violated the effective Agreement by employing a contractor to excavate and pour concrete foundation and sidewalls of an underground pit, for the later installation of the new electronic track scale at Reading, Pa., on or about May 7, 1963.
2. The Foremen Carpenters, and Mason Foreman, Carpenter Gang Leaders, Mason Gang Leaders, and Carpenters, Masons and their Helpers, now be paid the equivalent number of hours spent by the Contractor on this work of building forms and pouring concrete at this location. In addition Crane Operators and Helpers for the equivalent number of hours spent in excavating and backfilling for this work.

OPINION OF BOARD:

Early in 1963 the Carrier entered into a lease-purchase contract with the International Railroads' Weighing Corporation for a new type of electronic scale to be installed in Carrier's Reading Yard, Reading, Pa. The Carriers' maintenance of way employees build the scale house and rendered trackage service. The remainder of the work--excavation, backfilling and pouring the concrete foundation, and installation of the scale equipment--was performed under the aegis of IRWC. The latter corporation sub-contracted the foundation work to another firm but handled the scale equipment installation itself. The Carrier contends that it assigned to its M. of W. forces as much work as was feasible under the circumstances.

The evidence convinces us that the claim should be sustained with respect to the excavating and backfilling work performed in connection with construction of the foundation for the subject electronic track scale. The portion of the claim dealing specifically with construction of the concrete foundation will be denied, however, because said foundation is an integral part of the scale leased by IRWC to the Carrier. The construction of the concrete foundation by IRWC (or its own sub-contractor) was a requirement of the five-year warranty provided by IRWC with respect to satisfactory continued operation of the scale.

AWARD: Claim sustained in part and denied in part as indicated in above Opinion of Board.

/s/ Lloyd H. Bailer  
Lloyd H. Bailer, Chairman

/s/ A. J. Cunningham  
A. J. Cunningham, Employee Member

/s/ V. W. Bigelow  
V. W. Bigelow, Carrier Member

Philadelphia, Pa.  
June 28, 1966.