

SPECIAL BOARD OF ADJUSTMENT NO. 287

PARTIES:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES  
and  
THE BALTIMORE AND OHIO RAILROAD COMPANY

AWARD IN DOCKET NO. 20

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

(1) The Carrier violated the effective Agreement when, on or about October 2, 1957, it assigned the work of reconstructing Bridge No. 46 at Bartonville, Virginia, to a General Contractor, whose employes hold no seniority rights under the provisions of this Agreement.

(2) The after named furloughed B&B Carpenters each be allowed eight hours' pay at the Carpenter's straight time rate for each day worked by employees of the Steel City Construction Company on the reconstruction of the afore-mentioned Bridge No. 46.

G. A. Phillips            D. I. Adams  
M. E. Phillips            Wm. B. Harris  
G. W. Bohle                Guy Puig  
L. P. Keminski            R. K. Rollins (Claims from 11-12-57)."

FINDINGS: Some of the circumstances of the Award in Docket No. 19, are present in this case, involving Bridge No. 46 at Bartonville, Virginia.

On May 29, 1957, Carrier contracted with Steel City Contracting Company to reconstruct Bridges Nos. 32 and 46. Work started on Bridge 32, and as it approached completion, the Contractor, on October 2, 1957, started moving his equipment from Bridge 32 to Bridge 46 to start work on the latter bridge. The work on Bridge 32 was completed October 28. The work on Bridge 46 was completed on January 10, 1958.

The "1957 depression" had set in, causing Carrier to effect a force reduction. Organization maintains all claimants in this case, except R. K. Rollins, were furloughed November 1, 1957; Rollins' furlough was effective November 12, 1957.

Awards, that We held in the Award in Docket No. 8, and subsequent contracting

"4. The circumstances to be considered in judging Carrier's action in contracting such work shall be those circumstances existing at the time Carrier executes a contract for the performance of such work."

Carrier maintains that the "furloughing in November of the Claimants in this case was entirely unrelated to the fact that Bridge was reconstructed by a contractor."

It relies mainly on (b)5(a) 6; that B&B employees on the seniority district involved could not be assigned to this bridge without "impeding the work of other projects." B&B forces had performed some of the supporting work involved.

We think Carrier has met its burden of proving its reliance on (b)5(a) 6, in that it details the projects upon which B&B forces were engaged when this contract was executed. (TP 299). The Carrier also points out that the seniority district here involved is a part of the Eastern Region and this Region had an active Regional Bridge Gang, which was fully engaged at the time in question (TP 318-319); and that it was never furloughed during the time the contract here in question was being performed.

From the record before us we must and will conclude the Carrier has fully met its burden of proving the work in question was exempt under (b)5(a) 6. This claim will be denied.

AWARD

Claim denied.

(s) Edward A. Lynch  
Chairman

(s) A. J. Cunningham  
Employee Member

(s) T. S. Woods  
Carrier Member

Dated at Baltimore, Maryland,  
this 28th day of March, 1960.