

## SPECIAL BOARD OF ADJUSTMENT NO. 287

[illegible]

AWARD IN DOCKET NO. 22

### STATEMENT

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

(1) The Carrier violated the effective Agreement when it assigned the work of constructing an extension to Bridge 232/35 to a General Contractor whose employees hold no seniority rights under the provisions of this Agreement.

(2) Each of the Bridge and Building employes on the seniority district where the work was performed be allowed pay at his respective straight time rate for an equal proportionate share of one thousand two hundred eighty (1,280) man-hours consumed by the contractor's forces in performing the work referred to in Part (1) of this claim."

FINDINGS: This case involves Bridge 232/35 which was part of a major project involving two other bridges in the Valley of the Little Wabash River with which we are not here concerned. It involves extending Bridge 232/35 from 125 feet in length to 272 feet.

The aggregate estimate cost of this 3-bridge project was \$554,000. B&B forces handled the supporting work necessary on the project. Carrier elected to have the permanent construction work done under contract.

On August 6, 1957, Carrier executed a contract with the Steel City Contracting Company for the work on this bridge, and one other not here involved.

Carrier argues that this was "a job of considerable magnitude. In addition, this project required equipment which the Railroad did not possess. The work required the placing of steel sheet piling, and the work had to be arranged carefully so as to assure completion before the spring flood season."

The claim, like those of several other contract cases before this Board, arose because of Carrier action -- occasioned, Carrier argues, by the "1957 recession" -- in furloughing B&B forces in February of 1958. Organization states the B&B forces on the St. Louis Division "were abolished except for one or two carpenters. x x x while the work referred to in this claim was being assigned to and performed by an outside contractor."

However drastic was the furloughing, the fact remains it was done by the Carrier long after the contract here involved was executed. Organization made an eloquent plea here, as it did in the other contract cases before this Board, on the basis of equity and justice.

The fact remains, however, that the parties negotiated an agreement which exempts from the coverage of the agreement "work which is to be performed

under contracts let by the Company" under "any one or more" of 6 circumstances which we now hold, and have held, may exist at the time such contract is let.

We can only, then examine this negotiated right of the Carrier in the light of the evidence in this record on which it relies.

It is unnecessary to analyze all six circumstances. "Any one or more" of them is sufficient.

At page 344 of the Transcript of the hearing held by this Board is what we deem substantial evidence that employees covered by the Agreement on the seniority district involved were fully engaged and could not, under the situation faced by the Carrier at that time, be assigned to the work without impeding the progress of other projects.

Thus Carrier action can now be held to be sufficiently justified under paragraph 6, among others, of (b)5(a). It will be so held.

AWARD

Claim denied.

(s) Edward A. Lynch  
Edward A. Lynch  
Chairman

(s) A. J. Cunningham  
A. J. Cunningham  
Employee Member

(s) T. S. Woods  
T. S. Woods  
Carrier Member

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