

SPECIAL BOARD OF ADJUSTMENT No. 293

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

STATEMENT OF CLAIM:

Claim in behalf of the senior Bridge Carpenter Foreman working in a lower rank or furloughed on April 16, 1960 and the five senior furloughed Bridge Carpenters holding seniority on the Central Division for compensation equivalent to their share of the amount of time worked by employees not covered by the Agreement in performing certain repair work at the ferry dock at Liberty Street Terminal, New York City, on April 16, 1960.

OPINION OF BOARD:

For several days prior to April 16, 1960 a steel staple, or pin, had been missing from an expansion plate located between the ferry bridge and the roadway at the Carrier's Liberty Street Terminal. The plate continued to lie flat, however, and thus did not constitute an obstruction.

At about 4:30 p.m. on April 16, at a time when the commuter rush hour was beginning, the Stationmaster notified the Supervisor of Buildings and Bridges that a ferryboat had struck the ferry bridge, causing the subject expansion plate to be raised above the pedestrian walk and creating a hazardous condition. Since no Bridge Carpenters were available at the time, the Stationmaster was requested to take corrective temporary measures pending permanent repairs by the B&B forces. With the assistance of one or more employees not covered by the subject Agreement, the Stationmaster forced a wedge between the end of the expansion plate and the ferry bridge end post in order to maintain the plate level with the pedestrian footwalk. The next day an employee from the B&B Department was sent to the terminal to remove the wedge and make permanent repairs.

It could be concluded, as the Organization urges, that the Carrier should have replaced the missing staple prior to April 16. Since the force of the impact caused by the ferry on the involved date is not known, we cannot say that had the staple replacement been made more promptly, no damage would have been done to the expansion plate on April 16. It is nevertheless clear that at about 4:30 p.m. on that date an emergency condition arose which called for immediate action. The Carrier used such personnel as were at hand to deal with the situation. The fact that the Carrier assigned the permanent repair of the damaged plate to the B&B Department shows its recognition that, as a general proposition, repair work of this nature belongs to employees covered by the subject Agreement.

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MW 274

We conclude that the performance of the disputed temporary repair work by employees outside the Agreement in the subject instance was a permissible exception to the work jurisdiction of the contract. A denial award is warranted.

A W A R D

Claim denied.

(s) Lloyd H. Bailer
Lloyd H. Bailer, Neutral Member

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

(s) C. S. Strang
C. S. Strang, Carrier Member

Jersey City, N. J.
January 25, 1962