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SPECIAL BOARD OF ADJUSTMENT NO. 167

AIJARD NO. 3

Organization's File

103-A-1

Carrier's File

CL-31-53

STATEMENT OF CLAIM:

"Claim of the System Committee of the Brotherhood that:

"(1) The clerks' Agreement was violated and continues to be violated when employees of the Maintenance of Way Department, i.e., Messrs. Harris Williams and Les Engels are required or permitted to operate cranes in the scrap yard of the Store Department at Pueblo, Colorado, such work being properly under the scope of the Clerks' Agreement which employees holding seniority rights thereunder are entitled to perform.

"(2) Mr. Frank Hassey and Mr. Jerry Lopez shall be paid a day's pay for each day when employees of the Maintenance of Way Department, holding no rights to work under the Clerks' Agreement, have been used to perform the work of operating cranes in handling of Store Department work. Payment to be retroactive for all time of record when the Maintenance of Way employees cited in Item (1) above, or others holding no rights to the work involved, have been used, from June 29, 1953, until this practice is corrected."

FINDINGS: Claim that clamshell and burro cranes when used in scrap yard at Pueblo to handle Store Department material must be operated by employees under the Clerks' Agreement.

The scrap and materials handled by means of these on-track cranes at the Pueblo store was in the custody and under the control of the Store Department. The work of handling it was normally performed by employees of that department and belonged to them. This was recognized on June 30, 1954 by Carrier in paying claim made because mechanical forces were used to unload cars of drivers billed and shipped to it there. (The fact that the on-track cranes operated by Maintenance of Way employees were used only when receipts were heavy did not remove the work from the agreement.)

Award No. 3

The claim must be sustained and a claimant be paid at pro rata rate for all time shown of record from June 29, 1953 when a Maintenance of Way operator was used to operate a crane as here complained of in the scrap yard at Pueblo.

AWARD: Claim sustained as per findings.

/s/ Mortimer Stone
Mortimer Stone
Chairman, Neutral Member

/s/ D. L. Clavel
D. L. Clavel
Carrier Member

/s/ Wm. J. Donlon
Wm. J. Donlon
Organization Member