

AWARD NO. 22
Case No. 21

SPECIAL BOARD OF ADJUSTMENT NO. 280

PARTIES) The Brotherhood of Maintenance of Way Employees
TO)
DISPUTE) St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the effective Agreement by failing to assign furloughed Painter Joe Horn for painting work at the Mechanics' Office Building, Train and Enginemen's Washroom and Switchmen's Shanty at Texarkana, Texas.
2. Furloughed B&B Painter Joe Horn be now compensated for a total of 32 hours at his regular pro rata rate of pay on account of the violation of Agreement referred to in Part 1 of this claim.

FINDINGS: The employes state that sometime previous to January 16, 1959, the carrier assigned its shop laborers and other employes to the painting of 60 or more metal lockers in Mechanics' Office Building, the Train and Enginemen's washroom and the Switchmen's shanty, at the Texarkana Yard. These employes also painted the walls in the Material Storage Room at the same location for a height of about 6 feet in a 12x14 room, and painted pipes in and around the Texarkana Shop ground. This work belongs to the Maintenance of Way employes and the carrier should have called furloughed painter Joe Horn to do this painting.

The carrier states that Mechanical employes at Texarkana, Texas, were used to perform the following work in connection with a Mechanical Department housekeeping program:

1. Paint the front side of metal lockers in Shopmen's, Yardmen's and Enginemen's washrooms located in the Mechanics' Office Building;
2. Apply coat of paint to portion of wall 6 feet by 18 feet in Material Storage Room located at Repair Track where wooden shelving and cabinets have been replaced with metal shelving and cabinets;
3. Renew code colors on six valves and pipes used in connection with supplying engines at Hostler Track at the Texarkana Yard;

that the total amount of time consumed in this painting consisted of five hours.

Mechanical Department employes from the time immemorial have painted lockers, work benches, tool and material benches, ladders, scaffolds and various other equipment used inside and outside of buildings in the shop area, as these articles do not constitute any part of a building; that the pipes referred to in the claim consisted of six "diesel risers" located adjacent to the Hostler Track which were painted in code colors.

The evidence presented in this claim shows that the Maintenance of Way employees and the Maintenance of Equipment employees have both painted pipes, lockers and walls at this location.

The evidence further shows that Mr. K. M. Post, on August 11, 1934, in a letter written to Supervisory employees of this carrier, stated, in part:

" . . . The Maintenance of Way Department will maintain all oil pumping stations at Tyler and other points and all oil and water lines in and around shops and shop grounds as well as inside shop buildings. They will also maintain steam and air lines leading from the shop buildings or shop grounds to yards outside of the shop grounds."

The carrier offered no evidence to show that this order of Mr. Post's was ever rescinded.

The lockers that were painted by the shop employees were not part of any building and, therefore, was not the work of the Maintenance of Way employees.

There is a conflict in the evidence as to how much of the wall was painted in the Material Storage Room. The painting of these walls is work belonging to the Maintenance of Way employees and the carrier violated the Agreement when it had shop employees perform this work. The painting of the pipes is work of the Maintenance of Way employees as stated in Mr. Post's letter of August 11, 1934.

The Board finds that the carrier violated the Agreement when it had the wall painted by shop employees in the Material Storage Room and when it had shop employees paint the six pipes located adjacent to the Hostler Track at Texarkana, Texas. The carrier did not violate the Agreement when it had shop employees paint the lockers.

Due to the fact that there is a conflict in the evidence presented in this claim as to the amount of time it took the shop employees to paint the lockers, walls and pipes, the monetary part of this claim will be remanded to the parties to ascertain the exact amount of time it took the shop employees to paint the wall and six pipes and then pay to this claimant such amount of money as is due him for the time consumed.

AWARD: Claim sustained in accordance with the Opinion.

(s) Thomas C. Begley
Thomas C. Begley, Chairman

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

(s) M. L. Erwin
M. L. Erwin, Carrier Member

DISSENTING

Tyler, Texas
Dated: July 27, 1960.

CARRIER'S DISSENT TO AWARD 22

I must dissent to the Findings that letter written August 11, 1934, by former General Superintendent Post to a Division Superintendent and Superintendent of Motive Power relating to maintaining oil, water steam and air lines supports the present claim that a B&B painter had right to paint color codes on pipes. Mr. Post's letter had reference to pipe work performed by water service employees in the Maintenance of Way Department and Sheet Metal Workers in the Maintenance of Equipment Department, and made no reference to work performed by painters or other employees in either department. There was no question of painting involved, and particularly no question of color coding. Color coding with paint consists of applying paint in identifying colors to certain sections of pipe to indicate their purpose and to make them stand out prominently for safety reasons. This has been done by the employees of the department which uses the pipes, as it corresponds to applying oddly shaped tags, handles or collars to the pipe valves or connections, wrapping pipe with tape or metal bands, or using other distinguishing methods. No skill is required in applying the paint. It is used only as needed to keep the colors clear and bright and requires only a small amount of time. It has not been considered the work of painters.

For these reasons, I dissent.

(s) M. L. Erwin

M. L. Erwin, Carrier Member