

SPECIAL BOARD OF ADJUSTMENT NO. 287

PARTIES:

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

AWARD IN DOCKET NO. 16

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

(1) The Carrier violated the effective Agreement when, on June 11, 1956, it assigned the work of repairing the concrete sidewalk and curbing at the Chestnut Street entrance to the Passenger Station at Philadelphia, Pennsylvania, to a General Contractor whose employees hold no seniority rights under the provisions of this Agreement.

(2) B&B Foreman A. D. Whitehead and B&B Mechanics E. T. Williams, J. E. Russell, P. J. Coyle and F. H. Wood each be allowed pay at his respective straight time rate for an equal proportionate share of the total man hours consumed by the contractor's forces in performing the work referred to in Part (1) of this claim."

FINDINGS: This Carrier received a notice from the District Paving Engineer of the City of Philadelphia that the concrete curb and footway at its Chestnut Street Station were defective and must be repaired and reconstructed. It was likewise informed by the City of Philadelphia that "only a registered Curb and Footway Paving Contractor will be allowed to do this work under a permit issued upon presentation of this notice or a written order from you. Permits are issued free to registered Footway Paving Contractors at the District Office."

Contractor." This Carrier obviously was not a "registered Curb and Footway Paving Contractor."

It is quite clear from this record that at the time Carrier felt it was obliged to fully comply with the paving regulations of the City of Philadelphia. Furthermore, there is no charge from the Organization or evidence that Carrier did not act in good faith in complying with such municipal directive. Carrier had no alternative.

For this reason, the 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.