

SPECIAL BOARD OF ADJUSTMENT NO. 287

[illegible]

AWARD IN DOCKET NO. 19

STATEMENT

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

(1) The Carrier violated the effective Agreement when it furloughed Carpenter Helpers C. M. Carpenter, Andrew Valentine and C. H. Carpenter while a General Contractor's employees were engaged in the performance of Bridge and Building work on Bridge No. 562 at St. Louisville, Ohio.

(2) Each of the above listed employees be allowed eight (8) hours straight time pay for each day of unemployment by the Carrier during the period the Contractor's employees were assigned to perform Bridge and Building work on Bridge No. 562."

FINDINGS: This case involves Bridge 562.

Carrier executed a contract with the Steel City Contracting Company to perform foundation and substructure work on the new pier. This work was completed during the summer of 1956. Organization filed no claim against Carrier for this substructure work.

Carrier had placed an order for the steel beams for the superstructure of this bridge. However, it asserts "in the meantime" floods washed out a bridge on an important branch line in Baltimore Terminal which "made it necessary to divert the steel beams ordered for Bridge 562 to replace the bridge that was washed out."

So far as this claim is concerned, it has reference to the work on the superstructure which was awarded to the Steel City Contracting Company by contract executed April 11, 1957. The contract for the substructure is not involved.

In this case Organization argues Rule 51, which gives the Carrier the right to establish Regional Bridge gangs to operate within a Region -- in this case, the Western Region -- irrespective of the seniority districts within such region.

Carrier states it had been unable, up to the time the contract here at issue was executed, to establish or recruit a Regional Bridge Gang on the Western Region.

Work on the superstructure was begun May 20, 1957. On August 9, 1957, the old spans were rolled out and the new spans placed. Demolition of the old spans was completed on September 30 and the entire project was completed October 25, 1957.

Carrier maintains, and offers supporting documentary evidence in support, that during this period Carrier's B&B forces on this seniority district, were engaged in 45 major jobs; that they could not have been used on this bridge job

without impeding the progress of the projects to which they were assigned.
((b)5(a)6.)

So far as the facts are concerned, there is no claim for any dates before September 18, 1957, when claimants were furloughed because of economic requirements of what Carrier describes as the "1957 recession."

Actually, the claim before us is that Carrier violated the Agreement when it "furloughed (carpenter helpers) C. M. Carpenter, Andrew Valentine and C. H. Carpenter while a General Contractor's employees were engaged in the performance of Bridge and Building work on Bridge No. 562 at St. Louisville, Ohio."

Prior claims of this general nature before this Board have claimed Carrier violated the Agreement when it "assigned" B&B work to "outside" forces.

There is, then, no charge before us that Carrier violated the Agreement by contracting either the substructure or the superstructure of Bridge 562.

If the contracting of the superstructure can be held to be excepted from the Agreement by the existence of any one of the 6 circumstances cited in (b)5(a) of the Scope Rule -- and we believe Carrier has met its burden of proof -- and there is no charge that such contracting was violative of the Agreement, then this claim is not a valid claim.

In either event, a denial Award is in order.

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.