

SPECIAL BOARD OF ADJUSTMENT NO. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by failing to assign to the Arc Welder's Group the work of repairing tamping bits being used on the Electromatic Tamper then working on the former Erie Railroad in the vicinity of Elmira and Waverly, N.Y., commencing October 1, 1963 and continuing.

2. The Carrier shall now reimburse Arc Welder, R. Hurley, for the difference between compensation earned during the period beginning October 1, 1963 and continuing on all subsequent dates, and the earnings in compensations he would have received had this referred to repair work been assigned to him in accordance with the Agreement.

FINDINGS: This dispute concerns the assignment of repair work to tamping bits used in the electromatic tamper. The tamper was being used at the time in the vicinity of Elmira and Waverly, New York, which was Erie Railroad territory prior to its merger in 1960 with the Lackawanna. The repairs, according to Petitioner, therefore should have been performed by former Erie employees. Instead the bits were transported to Bath, New York, in Lackawanna territory and repaired there by a former employe of that railroad.

It may well be, as Petitioner insists, that work performed in the Erie area must be handled by former Erie employees. However, repairs to parts of a machine do not necessarily have to be performed in any one territory or in the place where the tamper itself is located. This is particularly true in the present case where the record does not indicate that management was acting in bad faith and seeking to circumvent its Agreement with the Organization. Carrier's explanation that the repairs were needed speedily because of a major derailment and that Bath was used because it was much nearer than the Erie repair point is quite realistic and reasonable.

It is our opinion that the claim is not supported by the Agreement or record and should be denied.

AWARD: Claim denied.

Dated at New York, N.Y. this 29th day of October 1968.

/s/Harold M. Weston
HAROLD M. WESTON, NEUTRAL

/s/A. J. Cunningham
ORGANIZATION MEMBER

/s/R. A. Carroll
CARRIER MEMBER