

SPECIAL BOARD OF ADJUSTMENT NO. 541

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees
Erie Lackawanna Railway Company

STATEMENT OF CLAIM:

1. Claim of the System Committee that the Carrier violated the effective Agreement by assigning Truck Foreman F. L. Steward, Truck Driver George Merithew, Trackman-Operator R. C. Dunn and Trackmen Robert Graham and Jerry Ryan to the work of applying Koppers 16 preservative and pea gravel on Ruth Creek Bridge Deck which is work belonging to the Bridge and Building Department, beginning September 13, 1967 and continuing to the expiration of the job.
2. These above identified claimants be now compensated for the difference in what they received at their respective Track Department rates of pay and what they should have received if they were compensated at the Carpenter Foreman and Carpenters' rates of pay for all hours involved from September 13, 1967 until completion of the work.

FINDINGS:

The question at issue is whether the work of applying "Koppers 16" and "pea gravel" to bridge ties belongs exclusively to carpenters. This dispute arose when Carrier assigned that work to trackmen and they filed a claim for the difference between their pay rate and that of carpenters.

There is nothing in the applicable Agreement or in the fundamental nature of the work itself that reserves the right to perform such duties to carpenters. Nor is there any evidence of past practice helpful to Petitioner in this case since this type of work had never been performed on the former Erie portion of Carrier's system, the area involved in this situation. It appears, on the other hand, that trackmen on former DL&W property have handled the application of fire retardents to bridge ties.

We agree with Petitioner that Bridge and Building carpenters are to be used when bridge structural repairs and maintenance are concerned. Here, however, the only work performed was on ties and none of it was on the bridge structure itself. Petitioner has not established that applying "Koppers 16" and "pea gravel" to the ties is the exclusive work of carpenters and the claim will be denied. See Public Law Board No. 76, Award 17 and Third Division Award 5870.

AWARD: Claim denied.

Adopted at Cleveland, Ohio, on October 16, 1974.

/s/ H. M. Weston
H. M. Weston, Chairman

/s/ R. A. Carroll
R. A. Carroll, Carrier Member

/s/ A. J. Cunningham
A. J. Cunningham, Employee Member