

AWARD NO. 7
ITEM: 100

SPECIAL BOARD OF ADJUSTMENT NO. 541
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
AND
ERIE-LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM:

"1. The Carrier violated the effective Agreement by failing to call furloughed Carpenter Helper Rudolph Schuckman to perform carpenter helpers' work 8-hours per day on June 7, 8, 9, 13 and 21, 1961. But, in lieu thereof the Carrier assigned Carpenter John Cataldi to perform this carpenter helper's assignment.

"2. That the Carrier shall now compensate Claimant Rudolph Schuckman for 8-hours pay at his pro rata carpenter helpers' rate for 8-hours per day on the dates referred to in part 1 of this claim."

FINDINGS:

Petitioner contends that Claimant, a furloughed carpenter helper, rather than a carpenter should have been used to operate a truck on the claim dates. Both job classifications are Group 2 positions covered by the Maintenance of Way Agreement and it is undisputed that Claimant was junior to the carpenter in seniority. No carpenter helper was on duty at the times in question.

Neither the Agreement, custom nor Assistant Chief Engineer Parsons' notices of February 15 and April 5, 1955, dictates that only carpenter helpers may drive trucks under these circumstances, and we are not disposed to reach so impractical a result in the absence of a clear expression of intention by the parties on the matter. The claim will be denied.

AWARD:

Claim denied.

Dated at New York, N. Y., this 25th day of August, 1964.

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

/s/ Arthur J. Cunningham
ORGANIZATION MEMBER

/s/ R. A. Carroll
CARRIER MEMBER