

AWARD NO. 9
ITEM: 105

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 on September 9, 1963, by abolishing the positions of three Assistant Work Equipment Foremen as per Bulletin No. 59, dated August 30, 1963, and then immediately re-advertised for bids, the same positions with a different title of Leading Work Equipment Repairman and a reduced rate of pay.

"2. Assistant Work Equipment Foremen, H. G. Barnes, C. E. Rowland, W. H. Ropke be now re-imbursed for all compensation lost to them by reason of the Agreement, as referred to in Part 1 of this claim and continuing until the violation is ceased."

FINDINGS:

This claim rests on the contention that substantially the same supervisory work of abolished foremen and assistant foremen positions was assigned to lower rated positions. In support of this charge, Petitioner points out that the number of employees has not been reduced during the period in question and that the lower rated positions were created at about the time the foremen positions were abolished. These circumstances may give rise to a suspicion but, standing alone, are insufficient to substantiate the claim. Suspicion, conjecture and argument are not the equivalent of essential evidence. The claim must be denied for lack of proof.

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 REPRESENTATIVE

/s/ R. A. Carroll
CARRIER REPRESENTATIVE