

**Award No. 12113**  
**Docket No. MW-10899**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Charles W. Webster, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC  
RAILROAD COMPANY  
(Lines West of Mobridge)**

**STATEMENT OF CLAIM:** Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the effective Agreement when, on September 4, 5, 6, and 9, 1957, it assigned other than a Group 1 Machine Operator to perform Group 1 Machine Operator's work in connection with the loading of a dismantled turntable at Miles City, Montana;

(2) The employes holding seniority in Group 1 of the Roadway Equipment & Machine Sub-department on Lines West of Mobridge each be allowed pay at his respective straight time rate for an equal proportionate share of the total man-hours consumed by the other employes in performing the work referred to in Part (1) of this claim.

**EMPLOYEES' STATEMENT OF FACTS:** In August and September of 1957, the Carrier assigned its Bridge and Building crew under the supervision of Foreman Wells to dismantle the steel turn-table at Miles City, Montana. In the dismantling thereof, an acetylene torch was used by an employe embraced within the scope of this Agreement to cut the turn-table into pieces suitable for convenient loading.

On September 4, 5, 6, and 9, 1957, the Carrier assigned a wrecker engineer, who holds no seniority rights under the provisions of this Agreement, to operate its wrecker crane in loading the above mentioned segments of the turn-table into gondola cars. Thirty-two (32) man-hours were consumed in the performance of this work.

The work was of the nature and character usually and customarily performed by the Carrier's Group 1 Roadway Equipment and Machine Operators.

The employes holding seniority in Group 1 of the Roadway Equipment and Machine Sub-department on Lines West of Mobridge (where the work

**OPINION OF BOARD:** This is a Scope Rule case. The claims here are worded in the same manner as held invalid in Awards 11372 and 11373, involving this same Carrier and Organization. This being so, the claim must be dismissed.

**FINDINGS:** The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

**AWARD**

Claim dismissed.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **THIRD DIVISION**

**ATTEST:** S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 24th day of January 1964.