

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Burlington Northern Railroad Company (former St. Louis-San Francisco Railway Company)

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

(1) The Carrier violated the Agreement when it used machine operators instead of trackmen to perform trackman's work with Gang 120 on January 21, 22, 23, 25, 28, 29 and 31 and February 1, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 19, 20, 21 and 22, 1985 (System File B-1309/EMWC 85-4-23A).

(2) Because of the aforesaid violation, Trackman J. A. Underwood shall be allowed one hundred seventy-six (176) hours of pay at his straight time rate and nine and one-half (9 1/2) hours of pay at his time and one-half rate."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

This Claim, and that involved in Third Division Award 27699, has its genesis in the January 18, 1985, abolishment of a Trackman's position on Gang No. 120 at Greenfield, Missouri. January 18, 1985, was a Friday. Between Monday, January 21 and Friday, February 22, 1985, Carrier, on 23 days, utilized two Machine Operators in the performance of Trackman's work, with Gang 120. In this Claim, the time that they were used totals 176 straight time hours and 9.5 overtime hours. The work performed by the two Machine Operators involved using a spike maul to gauge track, shoveling rock to clear switches and manual labor connected with unloading rail.

The Organization contends that its Agreement divides Trackmen and Machine Operators into separate seniority classes and that a furloughed Trackman should have been recalled to do this work instead of having it done by Machine Operators. Carrier contends that it has always utilized Machine

Operators to perform Trackman's work in instances where their equipment was rendered inoperable. Carrier, however, has not submitted any evidence indicating the two Machine Operators' machines were inoperable because of inclement weather.

In Third Division Award 25282, this Board considered a claim that parallels this case in great detail. There we held:

"This Board has reviewed the record of this case and the Awards submitted on the issue by both sides. We have concluded from this record that Equipment Operators and Trackmen have seniority on two separate rosters. We have also concluded that it is generally accepted in the industry that Portable Machine Operators perform the functions associated with operating the machines used by the Machine Department and that Trackmen traditionally perform the function relating to the dismantling and laying of tracks and the maintenance of the track and right of way associated with it. We are also persuaded that, on occasion, there is some overlap between job categories in maintenance of employment that cannot and should not be avoided. We are not persuaded, however, that this overlap would extend to a full week's work, as it obviously did in the instant case. The record here reveals that the Machine Operator was used as a Trackman for five consecutive days and then on track patrol on two single days. This clearly is work that normally should have been performed by Trackmen, not portable Machine Operators."

(Underscoring added.)

In this Claim we have under consideration the two Machine Operators were used in the completion of Trackman's work for an entire month. This occurred immediately upon the abolishment of a Trackman's position. Clearly this is work that should have been normally performed by Trackmen, not Machine Operators. (See Third Division Award 22072)

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February 1989.