

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29473
Docket No. MW-29003
93-3-89-3-428

The Third Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(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 assigned Roadmaster C. L. McLean instead of a Track Subdepartment foreman to supervise two (2) ballast operators and a shoulder cleaner working on the Third Subdivision from May 1 through June 5, 1987, (System File B-1858-2/EMWC 87-9-2B SLF).

(2) As a consequence of the aforesaid violation, Foreman J. R. Baker shall be allowed pay at the track foreman's rate for all hours Roadmaster C. L. McLean performed foreman's work from May 1 through June 5, 1987."

FINDINGS:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes 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.

The Claimant is a Foreman regularly who was assigned as such with a maintenance gang at the time of this dispute.

From May 1 to June 7, 1987, the Carrier engaged a contractor-operated shoulder ballast cleaner, accompanied by two small ballast regulator machines operated by Carrier employees. The

equipment was accompanied by a Roadmaster. The Organization states that the Roadmaster was used "to fill a position vacancy with duties consisting of directing machine operators . . ., throwing switches, obtaining permission to occupy specific work limits on tracks and...to occupy tracks during specific times." It is the Organization's contention that this is work reserved to a Foreman under the Scope Rule and other provisions of the Agreement.

The Scope Rule is clearly general in nature, with no reservation of specific duties. From the record provided by both the Carrier and the Organization, it appears well established that the listed duties, while within the normal functions of a Foreman, are not exclusively performed by Foreman and that others, such as a Roadmaster, also perform such work.


It is also noted that the Roadmaster was, in the normal course of his work, accompanying the contractor's equipment. The Organization has not established that the Carrier was required in addition to assign a Foreman under these specific circumstances.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 21st day of January 1993.