Award No. 6164
Docket No. MW-6187

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ILLINOIS CENTRAL RAILROAD COMPANY

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

(1) The Carrier violated the effective agreement when it required or permitted employes holding no seniority under the effective agreement to perform snow and ice removal work at Centralia, Illinois, on January 6, 1951;

(2) The two senior section laborers at Centralia, Illinois, be allowed two hours and forty minutes pay, each, at their respective time and one-half rates because of the violation referred to in part (1) of this claim.

EMPLOYES' STATEMENT OF FACTS: Carrier Train No. 26 is scheduled to arrive at Centralia, Illinois, at 6:40 P. M. Train No. 29 is due at the same station at 11:30 P. M.

Account of snow and freezing rain on the night of January 6, 1951, the station platform at Centralia became coated with ice and prior to the arrival of Train No. 26, a baggage man who was on duty at the time, spread rock salt on the station platform to melt the accumulated ice.

Salt was again spread on the opposite station platform prior to the arrival of Train No. 29, this service also performed by the baggage man. Each station platform is approximately two and one-half city blocks long. Three runways and sidewalks were also salted.

Snow and ice removal on the Carrier's station platforms has heretofore been assigned to and performed by the Carrier's track forces.

The baggage man secured the salt from the baggage room which is the only suitable location at this station to store rock salt for use by the track forces.

The agreement in effect between the two parties to this dispute dated September 1, 1934 and subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

The Carrier does not deny that sectionmen have performed such work on occasion; however, in this instance what was done was not with the intention of taking any work from sectionmen, but only to eliminate a hazard of injury as soon as possible before the trains arrived and prevent personal injuries to the parties concerned. Incidentally, even had the claimants been called, they would not have been able to make themselves available before the arrival of Train No. 26.

Your Board has held and recognized certain exigencies of the service which require prompt action, and it is the position of the Carrier that what was involved in the instant case was of an emergent character requiring prompt attention by removing an injury hazard and preventing personal injury. The attention of your Board is called to Third Division Award 2921, reading:

> "Facts in this case are not disputed. Claimant concedes 'unexpected service' was required. Carrier claims an 'emergency condition' existed. However described, immediate action was demanded. In view of the unusual circumstances we do not believe the Carrier violated the Scope rule of the Agreement by instructing the hostler helper, then and there on duty, to open the valve on the car of oil so that the supply tanks would be instantly replenished and the stationary boilers, faltering for want of fuel, could continue to supply necessary steam. The single act of opening the valve was the only operation necessary for the immediate relief of the situation. Time was of the essence. Delay would have resulted while the fuel oil handler was being called and pending his reaching the roundhouse.
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> "In view of the particular circumstances of this case it is our decision that the purpose and intent of the Scope rule was not violated. We find no award involving a similar situation which calls for a different conclusion."

Also, to Third Division Award 4946, which reads in part:

> "The position of the Carrier is the correct one in this case. The Yardmaster had the right to remove the immediate hazard if he could and to examine for the purpose of determining if claimant should be called to make repairs. That claimant was entitled to make the repairs is not disputed. But when the Yardmaster determined that the switch was operating, it was within the province of Carrier's supervisory officers to determine when the repairs should be made. The inspection to determine the extent of the repairs to be made and the manner of their making is a section foreman's work, but an inspection to determine if the damage requires immediate correction or otherwise is not the exclusive work of a section foreman. Under the theory advanced by the Organization, the claim would have been valid even if the Yardmaster had called the section foreman. The inspection in the one instance would have been no different in the one case than the other. No such result is intended or required by the rules."

Under the circumstances that existed, we feel there is no basis for this claim, and it should be denied.

All data in support of the Employes' and the Carrier's positions have been presented by the Employes to the Carrier and by the Carrier to the Employes and made a part of the question in dispute.

OPINION OF BOARD: This is a claim in behalf of section laborers because two baggagemen spread salt on the platform and runways at a

passenger station. It is contended that such work is the exclusive prerogative of the track forces.

It is not disputed that the salt was customarily kept for such use in the baggage room; that it had been raining, sleeting and freezing shortly before train time; that the complained of work took only from ten to fifteen minutes; that they were not instructed to do the work; that in each case the salt was spread very shortly prior to arrival of a train in connection with which the baggageman who spread the salt was required to pull a heavy truck, and that they thought it would be dangerous if not impossible to pull the trucks on the icy platform without the salt protection.

Carrier asserts that spreading salt has not been the exclusive work of any craft on the property; that in each case here involved after the ice formed there was not sufficient time prior to arrival of train to permit calling the track forces for the work, consequently an emergency existed, and that in each case the salt was spread by the baggageman only to the extent required for his own protection. Each of these assertions is denied by Employes, and each side has submitted evidence in support of its contention.

The statements of the baggagemen who did the work are convincing that the work done was only that thought necessary for their safety in connection with their assigned duties, that there was, as they thought, an emergency requiring them to do the work and it was done without assignment by or knowledge of Carrier. Such service we think cannot be the basis of a claim.

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 Employes involved in this dispute are respectively Carrier and Employes 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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 30th day of March, 1953.