

Award No. 10703

Docket No. MW-9998

NATIONAL RAILROAD ADJUSTMENT BOARD

**THIRD DIVISION
(Supplemental)**

Levi M. Hall, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

ILLINOIS CENTRAL RAILROAD COMPANY

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

(1) The Carrier violated the Agreement on March 10, 1956, when, in lieu of calling and using Section Foreman T. B. Holmes and Laborer Hubert Nathan to remove sand from switch at Lambert, Mississippi, in order to place the switch into proper operating condition, the work was performed by Track Supervisor Wages.

(2) Section Foreman T. B. Holmes and Laborer Hubert Nathan each be allowed payment for the 'call' they were deprived of as a result of the violation referred to in Part (1) of this claim.

EMPLOYEES' STATEMENT OF FACTS: The Claimants, Section Foreman T. B. Holmes and Section Laborer Hubert Nathan were regularly assigned as such on the section headquartered at Lambert, Mississippi. They were regularly assigned to a 40 hour work week, consisting of five days, eight hours each, Monday through Friday, with Saturdays and Sundays as designated rest days.

On Saturday, March 10, 1956 the spring switch at the south end of the yards at Lambert, Mississippi was not operating properly. Signal Maintainer Boling investigated and found that the difficulty was not due to defective signal equipment, but was caused by an accumulation of sand in the switch. Therefore, the Signal Maintainer returned to Lambert and reported the condition of the switch to Track Supervisor W. L. Wages, inquiring if the supervisor desired him (Signal Maintainer) to call the Claimant Section Foreman to perform the sand removing work, in order to place the switch back into proper operation. The Track Supervisor decided to accompany the Signal Maintainer to the switch and perform the sand removing work himself, obtaining the necessary tools from the section crew's tool house.

The maintenance and repair of the Carrier's track, including the cleaning of switches, is work that has heretofore been customarily and traditionally performed by the employees holding seniority in the Track Department.

of the spring switch in question. The answer to this question is obvious. Signal Maintainer Boling was on duty and under pay. Mr. Boling did not require any assistance in handling this work—the sweeping only took about two or three minutes. There was no reason for calling for assistance to handle this extremely light and routine variety of work.

Supervisor Wages did the sweeping out of a spirit of helpfulness. The signal maintainer had already been instructed to clear up the red spring switch signal, and this necessarily included whatever repair or service was necessary. Beyond a question of a doubt, the signal maintainer could have been required to do all of this work—Supervisor Wages merely lent a friendly helping hand.

To be quite frank, this particular claim is absurd. This and similar claims would attempt to draw craft lines so rigidly that a person of one craft could not spend a single second doing work which remotely resembles that usually performed by another. This kind of thinking would have an act such as removing a fallen brake shoe from the track become the sole monopoly of a single craft. If two minutes of sweeping a switch and performing work which is incidental to and part and parcel of a signal system is to be considered Maintenance of Way work, where is the line to be drawn? Will the possession and use of brooms on railroad property be limited solely to members of the Maintenance of Way Organization as the Organization maintains in its letter of appeal? These necessary conclusions make it too absurd to endorse such a premise.

III. SUMMARY

The Carrier has shown that the work of sweeping spring switches when done to restore signal operation is properly required of a signal maintainer. The Carrier has also shown that the Claimants would have been called out only when, as a matter of fact, the sweeping operation on tracks was of such a magnitude as to require it. The Carrier has demonstrated that the Claimants did not possess any exclusive right to render such assistance since the work in question was incidental to and a part of the assignment for which the maintainer was called to repair or correct. Finally, the Carrier has shown that the signal maintainer did not require any assistance in clearing up the spring switch signal, and that Supervisor Wages did nothing more than really help him find the cause of the trouble.

The Carrier asks that the Board deny this claim.

All data in this submission have been made available to the Employees and are made a part of the question in dispute.

OPINION OF BOARD: It is the contention of the Petitioner that the Maintenance of Way Agreement was violated when a Track Supervisor removed sand from a switch; that a Section Foreman and a Section Laborer should have been called to do this work, as the position of Track Supervisor is excluded from the Scope Rule of this Agreement.

The parties agree, generally, that on Saturday, March 10, 1956, at about 10:00 A. M., the train dispatcher notified Signal Maintainer H. L. Boling that the spring switch signal at the south end of Lambert, Mississippi, had been reported red. The Signal Maintainer inspected the switch and reported to the Track Supervisor that the trouble was located in the switch. The Track Supervisor and the Signal Maintainer then proceeded to the spring switch; the Track Supervisor secured a broom and brushed away and removed sand which

appeared in the switch and the Signal Maintainer applied the graphite. It took three or four minutes to clear the sand.

It is the claim of the Petitioner that the work of maintaining and repairing switches is reserved exclusively to the Organization under the Scope Rule and that the Track Supervisor is excluded from the Scope Rule by the Agreement from doing such work.

Conversely, it is the contention of the Carrier that the Supervisor went to the scene for the purpose of ascertaining whether the switch needed repairs, as he properly had a right to do and that the functions performed by him, under the circumstances in removing the sand to inspect the switch were proper functions for an officer of the Carrier; that his sweeping of the sand from the switch was purely incidental to his responsibility in determining whether repairs were necessary, that it developed that no repairs were necessary as the switch was not defective.

It was entirely proper, under the situation presented here, for the Track Supervisor to inspect the switch for a determination of whether repairs to the switch were needed to restore the signal to a clear position, and there was nothing improper or in violation of the Agreement, in removing the sand from the switch himself for the purpose of doing so.

As this Board said in Award 2932 (Carter).

"The Board recognizes the necessity of protecting the work of signalmen as it does any other group under a collective agreement. But this does not mean that the simple and ordinary work that is somewhat incidental to any position or job and requiring little time to perform, cannot be performed as a routine matter without violating the current Agreement . . . The contentions of the Organization attempt to draw too fine a line and tend to inject too much rigidity into railroad operation when a reasonable amount of flexibility is essential to the welfare of both the employees and the carrier."

This matter is determined on the facts presented in the instant case and for the reasons cited in this opinion. It is not to be considered as a precedent in future considerations before this Board as to what work is reserved exclusively to Maintenance of Way Employees under the Agreement.

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 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of July, 1962