

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19768  
Docket Number SG-19559

Benjamin Rubenstein, Referee

PARTIES TO DISPUTE: (Brotherhood of Railroad Signalmen  
(  
(Western Maryland Railway Company

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Western Maryland Railway Company:

(a) That the Carrier violated the Signalmen's Agreement, particularly the Scope, when a track foreman and a trackman were called to clear signal trouble at Rockwood, West End, instead of the Meyersdale, Pa., Maintainer, D. L. Horning, and his Assistant J. A. Pennington.

(b) That Mr. D. L. Horning and Mr. J. A. Pennington now be allowed three (3) hours each at time and one-half rate, as requested on time claim dated January 11, 1970. (B.R.S. Case No. 1 - 1970)

OPINION OF BOARD: On Sunday, January 11, 1970, there was a heavy snow. A track gang (members of M.W.E.) was clearing snow on the tracks. Part of their job was to clear snow from switches. The train dispatcher noticed on the control panel that one of the switches did not return to its normal position. He assumed that there was snow in the switch and notified the Maintenance of Way Department. Two trackmen, who were engaged in clearing the snow were instructed to clean the switch involved, and they did so, after which the switch returned to normal.

The Organization claims that its members should have been sent to determine what was wrong with the switch and correct the defect.

Both parties cited numerous awards, pro and con.

We have held, that clearing snow is generally considered part of the job of maintenance of way employees; the maintenance and operation of signals are jobs covered by signalmen.

Of the various cases cited, Award Number 19186 (Cull) is directly in point. There, we sustained the argument made by the petitioner herein, that "when a malfunction at the switches ... was indicated on the control machine, it was not up to the operator to guess or to speculate as to the cause, but to assign a signalman to determine the trouble and to correct it." "The fact, that trackmen were already out, is immaterial."

See also Awards 11761, 18372 (Dorsey), 19332 (Devine), 19270, 19272, 18557.

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On the basis of the above awards, we sustain the claim of the Petitioner.

We have considered the submission of Brotherhood of Maintenance of Way employees and find that our decision herein cannot be affected by it.

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

That the parties waived oral hearing;

That the Carrier and the Employee involved in this dispute are respectively Carrier and Employee 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 violated.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: E. A. Killum  
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1973.