

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19774
Docket Number MW-19502

Gene T. Ritter, Referee

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(The Belt Railway Company of Chicago

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

(1) The Carrier violated the Agreement when, on February 8 and 19, 1970, it used B&B forces to remove snow at the "B" rip track (System File 393-MW).

(2) Foreman N. Caputo and Laborers J. Villesenor, Z. Guerrero, R. Rodriguez and C. C. Calderon each be allowed seven (7) hours' pay at their respective time and one-half rates because of the aforesaid violation.

OPINION OF BOARD: Claimants are the Foreman and 4 members of the Section Gang assigned to Section A. On Sunday, February 8, 1970, and on Thursday, February 19, 1970, Carrier called and used B & B Forces to remove snow from the tracks and from between tracks at "B" Rip Track which is within the section territory assigned to the Claimants. In support of this claim, the Organization alleges that Claimants have traditionally performed all snow removal work on their section territory for which they were available, and that they were available in this instance had they been called to perform the work. Carrier alleges that there is no craft or class of employee on this property having an exclusive right either by rule or practice to snow removal. Carrier further alleges that the work of cleaning snow and ice has not by practice or rule, been performed exclusively by track forces and that B & B employees have been used repeatedly to clean snow at this location.

The record reveals that the Organization has failed to produce sufficient evidence that other than B & B Forces had performed the involved work in the past. Because of this lack of evidence, this claim will be dismissed.

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;

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That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:


Executive Secretary

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