

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employes
(Duluth, Missabe and Iron Range Railway Company

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

(1) The Carrier violated the Agreement when it assigned and/or permitted an Operating Department employe (brakeman) to clean the scale at Proctor, Minnesota on June 25, 1984.

(2) As a consequence of the aforesaid violation, B&B Mechanic J. Cardinal shall be allowed one (1) hour of pay at his straight time rate."

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 Carrier transports processed iron ore. The ore trains are weighed at Proctor, just north of Duluth. The weighing process commonly causes a certain amount of spillage. On June 25, 1984, the Carrier had a Brakeman sweep iron ore pellets from the deck of the commercial scale in the Proctor Yard. The Organization argues the Proctor commercial scale is the type of structure contemplated by Rule 26(c). The Organization notes the Carrier has readily admitted that "B&B forces are dispatched on a regular basis to clean and maintain the scales." Therefore, the Organization argues the work is reserved to the B&B forces and Carrier's actions on June 25, 1984, were in violation of the Agreement.

The Carrier argues there is no explicit rule which confers the work of sweeping the commercial scale to the B&B craft. Accordingly, the Carrier contends the burden is upon the Organization to establish it has exclusively swept work areas of debris throughout the Carrier's system.

This Board agrees with the Carrier's argument, and we find the record establishes the Organization has not proven it performs the work in question exclusively and system-wide.

The Divisions of the National Railroad Adjustment Board have uniformly held that, unless particular items of work are defined by specific Agreement language as reserved to a single craft, the Organization laying claim to work has the burden of proving the work involved belongs to it by custom and practice on a system-wide basis. In this matter, the Organization has failed to meet this burden of proof.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Bejer - Executive Secretary

Dated at Chicago, Illinois, this 25th day of February 1988.