

Award No. 24

Case No. 24

Public Law Board No. 2203

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Consolidated Rail Corporation

STATEMENT
OF
CLAIM:

1. The Carrier violated the Rules Agreement effective April 15, 1944, as modified September 1, 1949, January 22, 1974 and March 4, 1976, particularly Rule I -- Scope when, on April 14, 1977, Foreman John Hill performed a trackman's duties of gauging Track No. 22 at Oak Island, New Jersey.

2. As the result of such violation, Claimant Frank Swarrow be compensated one day's pay at the trackman rate.

FINDINGS:

It is Petitioner's contention that Carrier violated the applicable Agreement when track gauging was performed by Foreman John Hill. The foreman was with a gang at the time.

Track gauging is bargaining unit work performed normally by trackmen. We can appreciate the concern of the Organization when a foreman is used to handle such work, particularly at a time when a trackman, in this case the claimant, is on furlough.

However, here the foremen and trackmen are in the same bargaining unit and on the same roster. Moreover, neither the Scope Rule, which is of a general nature, nor any other provision of the applicable Agreement imposes any restriction on the use of foreman to gauge tracks. Nor, so far as the record shows, does any practice on this railroad bar foremen from performing those duties. On the contrary, it appears that foremen have historically attended to those functions.

Of course, under many agreements, any use at all of foremen to perform the work of their subordinates constitutes a violation. However, the rules and practices on this property do not prohibit such work assignments and there is nothing in the record that suggests that foremen are performing the work in question to any greater degree or in any different fashion than in the past.

AWARD: Claim denied.

Adopted at Philadelphia, Pa., August 14, 1979.

Harold M. Weston

Harold M. Weston, Chairman

M. M. D. (unclear)

Carrier Member

Fred (unclear)

Employee Member