

PUBLIC LAW BOARD NO. 2452

PARTIES Brotherhood of Maintenance of Way Employees
TO
DISPUTE: and
Western Maryland Railway Co.

STATEMENT Claim on behalf of S. H. Weslow for ten (10) hours
OF CLAIM: at time and one-half rate account Acting Foreman
C. E. Shahan allegedly performing mechanic's duties
on Saturday, July 23, 1977 at Smithburg, Maryland.

FINDINGS: By reason of the Agreement dated June 14, 1979, and
upon the whole record and all the evidence, the Board
finds that the parties herein are employee and carrier within the
meaning of the Railway Labor Act, as amended, and that it has
jurisdiction.

Employees charge that on July 23, 1977, Claimant, as
acting foreman, accompanied two Mechanics to Smithsburg, Maryland
to "install rear axle and housing complete in Ballast Regulator
BR714". While there, say the Employees, the acting foreman
"performed duties of Mechanic by working under machine bolting
up rear axle, etc." All this appears in Employees' letter of
August 29, 1977 presenting this claim to the Carrier.

Carrier's Manager of Engineering denied the claim on
September 29, 1977, stating that Shahan's duties on the job were
to supervise and final check the installation. The two mechanics
installed the axle assembly.

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In a letter dated November 10, 1977, appealing the denial Employees wrote that "on a previous occasion a same axle assembly had to be replaced and it required three (3) mechanics to perform this operation. The acting foreman replaced a third mechanic.

Replying thereto on January 17, 1978, and again denying the claim, Carrier wrote that the first installation differed from the second in that no straightening of the axle and mounts was required. A new axle replaced the old on July 23, 1977. And, "Foreman Shahan was assigned to supervise the second installation to insure that it was performed properly". After a conference, Carrier confirmed the decision in a letter dated October 31, 1978.

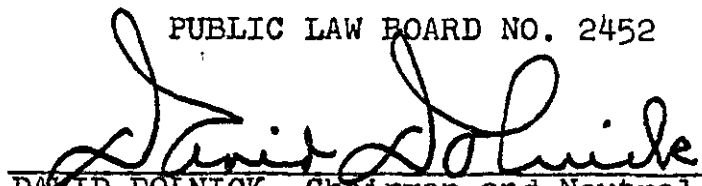
Upon this record on the property, Employees have not shown by a preponderance of relevant and acceptable evidence that acting foreman Shahan actually performed work which belongs exclusively to Mechanics. Employees have not met the burden of proof.


This Board, therefore, finds that the Carrier did not violate the Agreement and that the claim has no merit.

AWARD

Claim denied.

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DAVID DOLNICK, Chairman and Neutral Member


W. C. COMISKEY, Carrier Member


WILLIAM E. LA RUE, Employee Member

DATED: April 16, 1980