

Award No. 13
Case No. 31

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MR. J. E. YOST

Public Law Board No. 2630

PARTIES
TO
DISPUTE:

Brotherhood of Maintenance of Way Employees

and

The Baltimore and Ohio Railroad Company

STATEMENT
OF
CLAIM:

1. Carrier violated the Agreement when it assigned Trainmen John Mallott and Herman Felts to Crossing Watchman Maintenance of Way positions connected with the Construction Contractor Richter Transfer Company from July 17 until October 17, 1977, and each day thereafter for 10 hours daily, five days each week.

2. Claimants Taylor Lawrence, James Starr, Sherman Booth, Willie B. Wynn, Cleveland Harris, Sr., Charles Lester, Richard Lambert, Henry Phillips, Harold Stringfield, John Harris, Rufus McQueen, Bobby Yancy, Jr., Theodore P. Williams, Sr. and Ernest Charles be paid equal amounts for the total claim at the rate of the trackman's position.

FINDINGS:

Claimants are trackmen at Cincinnati, Ohio. On


the claim dates, independent contractors were loading ballast cars at Brighton Crossing for the new Cincinnati Yard by dumping ballast from a C&O bridge.

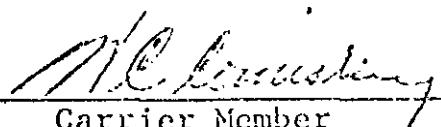
It is Petitioner's position that Carrier violated the applicable Agreement when it had two Trainmen flag Brighton Crossing. Petitioner maintains that watchmen covered by its Agreement should have been assigned to that work.

So far as the record shows, the trainmen were used not to flag traffic over the Crossing, but to protect train movements. There is no evidence that by rule or practice the protection of train movements on this property is reserved exclusively for Maintenance of Way watchmen. In the absence of such a showing, it would appear that it was not improper to call upon trainmen to perform that work.

AWARD: Claim denied.

Adopted at Baltimore, Maryland, *August 15,* 1981.


Harold M. Weston, Chairman


Carrier Member


Employee Member