

PUBLIC LAW BOARD NO. 5606

**PARTIES) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES
) DIVISION OF THE INT'L BROTHERHOOD OF TEAMSTERS
 TO)
DISPUTE) SPRINGFIELD TERMINAL RAILWAY COMPANY**

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- 1. The Agreement was violated on March 19, 2008 when the Carrier assigned Machine Operator S. Page to make repairs to a speed swing instead of assigning Work Equipment Repairman David McCaw.**
- 2. As a consequence of the violation referred to in Part 1 above, Work Equipment Repairman David McCaw shall now be allowed eight (8) hours' pay at the Work Equipment Repairman's straight time rate of pay. (Carrier File MW-08-06)**

FINDINGS:

The Board, after hearing upon the whole record and all the evidence, finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended; this Board has jurisdiction over the dispute involved herein; and, the parties were given due notice of hearing thereon.

The claim here at issue calls for a determination as to whether on March 19, 2008, when a chain on a Speed Swing at Lincoln, Maine, was found to be in need of repair, the Carrier's Supervisor, Maintenance of Way, violated provisions of the current Rules Agreement by instructing the Machine Operator to make the repair and not sending a Work Equipment Repairman to perform the repair work.

It is the position of the Organization that repair of the Speed Swing was not directly related to the Machine Operator's operation of that machine, and that the Carrier did not, therefore, have a right under Article 2, "Intra-Craft Jurisdiction," as the Carrier maintains, to have the repair work performed by the Machine Operator.

The Organization maintains that in having the Machine Operator perform repair work, the Carrier violated the Rules Agreement by having work performed outside the classification of an Equipment Operator. Further, the Organization says that Claimant, a Work Equipment Repairman, was available to go to Lincoln, Maine to repair the Speed Swing, and should have been sent to perform such work.

Article 2, "Intra-Craft Jurisdiction," of the current Agreement reads as follows:

- 2.1 Employees will be allowed to perform tasks which are directly related to the service being performed and which they are capable of performing, provided the tasks are within the jurisdiction of the Brotherhood of Maintenance of Way Employees.
- 2.2 Employees assigned to work other than their regular positions will receive the rate of the other positions or their regular position, whichever is higher, at the minute basis up to 4 hours. If assigned more than 4 hours, employees will be paid the higher rate for the day.
- 2.3 Assignment of employees pursuant to this Article 2 will not constitute a basis for any claim by other employees, provided no employee of the affected class or craft is furloughed.

The Carrier's position is that it was in full compliance with Section 2.1, *supra*, in having a Machine Operator repair a link on a chain of the Speed Swing which he was operating. The Carrier says it was a task directly related to the service he was performing, and it involved work that the Machine Operator was capable of performing. The Carrier says it took this action so as to not subject the work being performed by the Machine Operator to unnecessary downtime while awaiting the dispatch and arrival of a Work Equipment Repairman.

The Carrier also submits that on the date in question Claimant was working on his own assignment, and that the driving time for Claimant to have gone from his work location to Lincoln, Maine would have been two to three hours.

The Carrier further says, as concerns Section 2.3, *supra*, that at the time in question there were no employees of the affected class or craft in a furloughed status.

The Organization disagrees with the Carrier "interpretation" of Article 2.3. It says that Article 2.3 "governs claims arising from assignments in accordance with Article 2," and that Article 2 did not extend to the Carrier a right to assign the repair work at issue to be performed by a Machine Operator.

In the opinion of the Board, to require the Carrier to do as the Organization here seeks in the filing of the instant claim would be to apply an incorrect interpretation on agreement language as contained in Article 2.1. The work claimed by the Organization involved a minor repair to the machine, which was directly related to the service being performed by the Machine Operator. In the instant case, the Machine Operator was apparently capable of performing the repair and Article 2.1

specifically provides that employees will be allowed to perform tasks which are directly related to the service being performed and which they are capable of performing.

The Board finding that the Agreement was not violated, the claim will be denied.

AWARD:

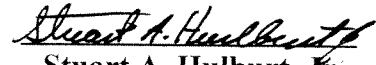
Claim denied.



Robert E. Peterson
Chair & Neutral Member



Anthony F. Lomanto
Carrier Member



Stuart A. Hulburt, Jr.
Organization Member

North Billerica, MA

Dated April 12, 2010