

PUBLIC LAW BOARD NUMBER 1837

Case Number 49
(MW-BRS-76-25)

PARTIES TO DISPUTE:

Norfolk and Western Railway Company

and

Brotherhood of Maintenance of Way Employees

STATEMENT OF CLAIM:

1. The Carrier violated the provisions of the Effective Working Agreement dated April 1, 1951 of the Wheeling and Lake Erie District, and subsequent agreements when on August 10 through August 31, 1976, September 1 through September 5, 1976, and September 13 through September 30, 1976, the Carrier assigned Motive Power Department employees to maintain and operate the Water Pollution Plant at Brewster, Ohio for eight (8) hours each day, instead of assigning Bridge and Building Subdepartment employee Delbert Godwin. (MW-BRS-76-25)

2. The Claimant, Delbert L. Godwin, be compensated for eight (8) hours each day for a total of three hundred and sixty (360) hours at the applicable rate of his position.

FINDINGS: This Board, upon the whole record and all evidence, finds that:

The carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act, as amended.

This Board has jurisdiction over the dispute involved herein.

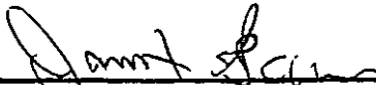
OPINION:

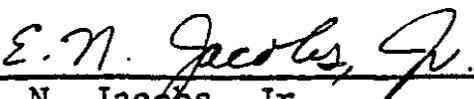
The facts in this case are virtually identical to those in Case 47 (MW-BRS-76-19) which involved the servicing and maintenance of a "Water Pollution Plant." In this case, the Plant was at the Carrier's Brewster, Ohio facility. As in Case 47, members of the B&B craft constructed the facility at Brewster and for several years apparently were responsible for ensuring its proper function and use; such work here, as in Case 47, apparently involved one or two hours per day. And, as in Case 47, employees of another craft (here, those involved in Motive Power) were then assigned such work.

Our conclusions are the same here as in Case 47. There is nothing to indicate that the operation of this facility -- one made mandatory by the State of Ohio -- has been assigned to the B&B craft via negotiation or other agreement. Neither can it be persuasively argued that a past practice has reserved such work for the B&B craft. A reasonable argument might arguably be advanced that such work is akin to other work performed by this craft, but it is insufficient to make the case herein asserted by the Organization.

AWARD:

Claim is denied.


James F. Searce
Neutral Member


E. N. Jacobs, Jr.
Carrier Member


William E. LaRue
Employee Member

Dated March 24, 1982 at Philadelphia, Pa.