

PUBLIC LAW BOARD NO. 2452

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

STATEMENT Claim on behalf of J. R. Riggleman, M. C. Mallow and
OF CLAIM: T. R. Davis for sixteen hours (eight straight and
eight time and half) for work performed by B&O Carmen
cleaning switches at W. Va. Junction on Friday,
January 20, 1978.

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 employe and carrier within the
meaning of the Railway Labor Act, as amended, and that it has
jurisdiction.

This claim was presented by letter dated February 24,
1978, stating that because "of a heavy snow fall on January 19,
1977 and January 20th," Carrier "violated the agreement by
utilizing B&O Carmen to clean switches instead of using the
available M.ofW. employees or recall their senior furloughed
employees to assist with this situation". Claimants were on
furlough who had listed their names, addresses and telephone
numbers in compliance with Rule 3(e). Carrier denied the claim
on April 6, 1978 stating that "no B&O Carmen were assigned the
specific duty of cleaning switches at West Virginia Central Junction".

On appeal, Carrier again denied the claim on June 21,
1978 and stated that "Foreman T. P. Gracie and Trackman G. L. Mayle
of Force 1104 were assigned the work of cleaning and sanding switches
at West Virginia Central Junctions on January 20, 1978".

These are the only factual allegations in the record.
Employes have submitted no substantive and convincing evidence
that B&O Carmen or that any other employes of a foreign carrier

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removed snow and cleaned switches on January 20, 1978. The mere statement that they did is a mere assertion and not evidence, in view of Carrier's denial. Employees have not met the burden of proof.

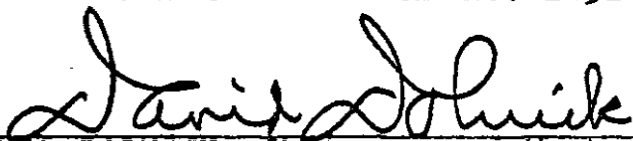
Employees have also raised the conference issue comparable to the one contained in Docket No. 2 and resolved in Award No. 2. For the reasons stated in said Award No. 2, the conference issue is resolved in favor of the Carrier.


Upon this record, the Board finds that the Carrier did not violate the Agreement and that there is no merit to the claim.

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