

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 October 1, 1968 Agreement, particularly Rule 24 thereof, and the Agreement of August 7, 1975, Section 7, when B. C. Moreland, Assistant Track Inspector, was used to drive truck and gather track material on January 10 and 11, while furloughed Trackman R. E. Channell was not called to perform services as a trackman at a derailment near Mile Post 17, "G&B" Main.

2. Claimant R. E. Channell be compensated for all time worked by Assistant Track Inspector B. C. Moreland on January 10 and 11, 1978 at the appropriate rate of trackman.

FINDINGS:

At about 11:55 a.m. on January 9, 1978, a train

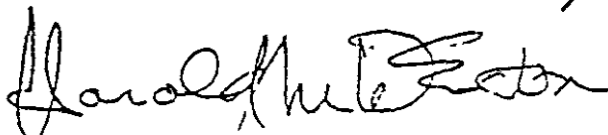
hauling 38 loads and 68 empties derailed 22 cars at Mile Post 17.6 on the "E&B" Mainline. Assistant Track Inspector Moreland was working in the vicinity at that time and he was used to assist by transporting, in a hy-rail vehicle, tools, material and men in and out of the derailment site and by gathering track materials at various locations and bringing them to that site.

There is no basis for a claim on January 9 since an emergency existed on that day due to the derailment and Carrier was justified in using all available personnel to remedy the situation. However, it cannot be fairly concluded, at least on the basis of this record, that emergency conditions continued through the two following days. By that time, a furloughed trackman should have been used in preference to a track inspector for trackman's work.

The claim will be sustained.

AWARD: Claim sustained. To be effective within 30 days.

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



Harold M. Weston, Chairman



Carrier Member



Employee Member