

PUBLIC LAW BOARD NO. 2960

AWARD NO. 115

CASE NO. 153

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

and

Chicago & North Western Transportation Company

STATEMENT OF CLAIM:

Claim of the System Committee of the Brotherhood that:

- (1) The Agreement was violated when Track Supervisor G. L. Hart was not called to perform track inspecting duties on his assigned territory on January 19 and 20, 1984. (Organization File 4T-4485; Carrier File 81-84-127)
- (2) Claimant G. L. Hart shall now be compensated for five and one half (5 1/2) hours at the applicable overtime rate.

OPINION OF THE BOARD

This Board, upon the whole record and all of the evidence, finds and holds that the Employee and Carrier involved in this dispute are respectively Employee and Carrier within the meaning of the Railway Labor Act, as amended, and that the Board has jurisdiction over the dispute involved herein.

The basic facts are undisputed. The Claimant, G. L. Hart, is assigned the Track Supervisor's position at Stanwood, Iowa, and is responsible for inspecting track between Mile Post 6.9 and

Mile Post 51.6 on the East Iowa Subdivision. He is regularly assigned to work Saturday through Wednesday, with Thursdays and Fridays designated as rest days.

On January 19 and 20, 1984 (Thursday and Friday), the section crew at Lowden, Iowa, which is encompassed by the Claimant's territory, was called after their regular hours of assignment to perform track inspection on their territory. The claim is for the time spent by the section crew in inspecting track. This involved three hours overtime on January 19 covering service between 9:00 p.m. and 12:00 midnight, and 2.7 hours overtime on January 20, 1984, alleging that inspection was conducted between 9:00 p.m. and 11:40 p.m.

The Union relies on Rule 23 (1) which reads:

"(1) Work on unassigned days - Where work is required to be performed on a day which is not a part of any assignment, it may be performed by an available extra or unassigned employee who will otherwise not have 40 hours of work that week; in all other cases by the regular employee."

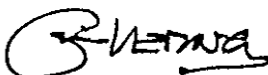
It is the opinion of the Board that this Rule cannot support the claim. This is not a situation where the work, which can easily be said to accrue to an individual or class of employees, is being performed on a day which is not part of any assignment. In this case, the work of track inspection on the Lowden section is not exclusively reserved by Rule or practice to the Claimant. For instance, there is no dispute that a section crew can inspect track on its assigned territory as long as that inspection is performed during their regularly assigned work hours -- for example, 8:00 a.m. to 5:00 p.m. Nor, is there any dispute that a

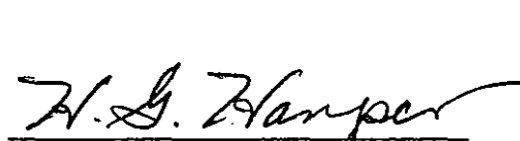
section crew can be called out outside their hours without a Track Supervisor to perform sections duties.

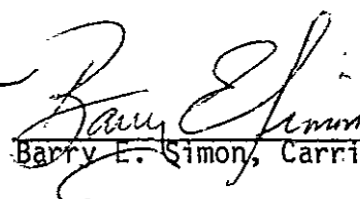
This case really involves a question of the equitable distribution of overtime opportunities for work which is shared by position/classifications. There simply is no rule which implicitly or explicitly grants the Claimant more or exclusive entitlement to the work at question than the section crew.

AWARD

The Claim is denied.


Gil Vernon, Chairman


H. G. Harper, Employee Member


Barry E. Simon, Carrier Member

Dated: April 4, 1986