

PUBLIC LAW BOARD NO. 2960

AWARD NO. ~~300~~ 161
CASE NO. 225

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 Carrier violated the Agreement when it assigned the Chariton Section Crew on January 26, 1987, to change a broken rail on the section territory assigned to the Allerton Section Crew. (Organization File 4SW-1191T; Carrier File 81-87-80)
- (2) The Carrier violated the Agreement when it assigned the Chariton Section Crew on February 26, 1987, to angle bar a broken rail on the section territory assigned to the Allerton Section Crew. (Organization File 4SW-1193T; Carrier File 81-87-82)
- (3) The Carrier violated the Agreement when it assigned the Allerton Section Crew on January 24, 1987, to repair an open joint; on January 25, 1987; to change angle bars; and, on February 8, 1987, to surface track and install track bolts on the section territory assigned to the Trenton Section Crew. (Organization File 4SW-1194T; Carrier File 81-87-83)
- (4) Because of the violation described in Part 1, Allerton Section Crew members J. R. Noe, F. W. Stark, and R. E. Sanders, Jr. shall each be allowed 2 hours and 40 minutes pay at their respective overtime rates.
- (5) Because of the violation described in Part 2, Allerton Section Crew members P. F. Davison, F. W. Stark, and R. E. Sanders, Jr. shall each be allowed 2 hours and 40 minutes pay at their respective overtime rates.
- (6) Because of the violation described in Part 3, Trenton Section Crew members P. G. Wallace, J. D. McGinnes and F. G. Lawson shall each be allowed 10 hours and 40 minutes at their respective overtime rates."

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 claims generally protest the use of an adjacent section crew to perform work on the Claimant's crew on their rest day. The crew that was used was not on their day. The rest days of the crews are staggered.

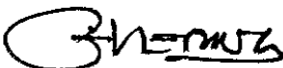
The organization relies on Rule 23(l) which states in relevant part:

"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 unassigned employee who will otherwise not have 40 hours of work that week; in all other cases, by the regular employee."

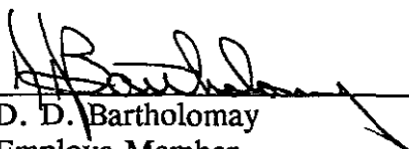
We note that the Carrier asserted on the property that the Roadmaster has in the past-- consistent with what they believed to be his rights--used employees from both section crews on either territory when needed. In view of this and in view of the fact that the crew used was not on their rest day, it can be said that the work in question was part of their assignment. Therefore, Rule 23(l) is not applicable in these circumstances.

AWARD:

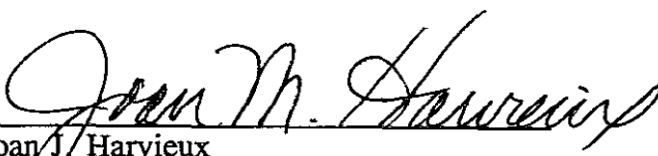
The claims are denied.



Gil Vernon, Chairman



D. D. Bartholomay
Employee Member



Joan J. Harvieux
Carrier Member

Dated: 7-25-91