

PUBLIC LAW BOARD NO. 2960

PARTIES Brotherhood of Maintenance of Way Employees

TO and

DISPUTE Chicago and North Western Transportation Company

STATEMENT OF CLAIM: Claim in behalf of Mr. H. T. Harbers due to Signal Department employees' constructing retaining walls at out about Mile Post 52.8 and 47.2 on the St. Louis Subdivision for 24 straight-time hours on June 4, 5 and 6, 1991."

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

OPINION OF THE BOARD: This case protests the use of Signal Department employees to build a retaining wall. It is the position of the Organization that the building of wood retaining walls is work reserved to them by contract, custom, and history.

The Carrier argues that the work is not exclusively reserved to this bargaining unit in any way. On the contrary, they contend, under these facts that Signalmen could do the work based on the language of the signalmen's agreement which states in pertinent part that: "Installing foundations directly supporting signals or associated appurtenances" is Signalmen's work.

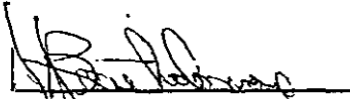
It is the conclusion of the Board that the construction of the retaining wall in this case was part and parcel of the signal work. The construction of the wall was necessary solely for the proper installation of the signal. Under such circumstances and given the lack of specificity in the language of the BMWF agreement contrasted with the specificity of the language in the Signalmen agreement, the Board cannot conclude that the contract was violated.

AWARD

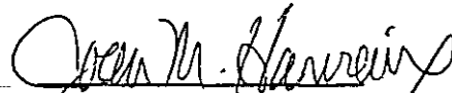
The claim is denied.



Gil Vernon, Chairman and
Neutral Member



D. D. Bartholomay
Union Member



J. M. Harvieux
Carrier Member

Dated: October 31 1994.