

Award No. 66
Case No. 66

PARTIES Brotherhood of Maintenance of Way Employees
TO and
DISPUTE Burlington Northern Railroad Company

STATEMENT "1. The Carrier violated the Agreement January 25, 26,
OF CLAIMS: 27, 28 and 29, 1982 when assigning B&B forces to
clean snow from tracks at Alton and Superior,
Wisconsin.

2. That Claimants J. P. McBinnis, M. S. Johnson,
J. M. Nettleton, D. B. Paulson, M. A. Lees,
L. M. Brittain, L. E. Van Alstine, R. F. Lassen,
L. H. Kevzer, P. H. Hellerud, M. E. Polkoski,
J. H. Sigfrids, P. D. Tessier, W. E. Kask, D. H.
McConnell and R. J. Noffsinger now be allowed equal
proportionate share of the 48 1/2 straight time hours
worked by B&B forces."

FINDINGS

Upon the whole record, after hearing, the Board finds that the
parties herein are Carrier and Employees within the meaning of
the Railway Labor Act, as amended, and that this Board is duly
constituted under Public Law 89-456 and has jurisdiction of the
parties and the subject matter.

On the claim dates in this dispute, the Claimants named
herein were all full-time Sectionmen from the
Superior-Alton terminal. The record indicates that on
January 23 and 24 a severe winter storm struck the area dumping
extreme amounts of snow on the terminal closing the access roads

to most areas of the yard as well as the terminal itself and brought operations to a near standstill. Because of this circumstance, Carrier declared a snow emergency together with most of the other activities and businesses in the area. Record indicates that Carrier in attempting to restore operations, used all forces from all crafts in an attempt to clean the switches and shovel snow from the terminal and, as well, recalled 25 firehousemen to assist the regular forces in performing the emergency snow removal work. However, the 15 Claimants herein were not recalled. The snow removal activity continued for all the days indicated in the claim. The dispute herein was based on Petitioner alleging that the Claimants should have been recalled to clean snow from switches, which was solely Track subdepartment work and the B&B forces should not have been used.

The claim herein is closely related to that dealt with in Award No. 65 of this Board. In this dispute as in the prior one the Organization takes the position that snow removal work was restricted and reserved to employees in the Track subdepartment.

Aside from the question of the snow emergency, which is an important consideration, the Board has already ruled on the principle issues involved in this matter. It is clear that there was no specific rule support for Petitioner's position. There is

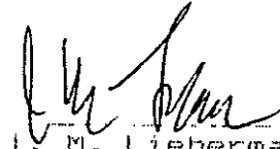
nothing in the rules dealing with the exclusive right to snow removal work being reserved to Track subdepartment employees. Historically, Carrier has used many crafts, including operating personnel and clerical personnel to assist in snow removal activities. There is nothing either historically or customarily, as was indicated in Award No. 65, which supports the position of Petitioner with respect to this work.

In addition to the question of whether indeed snow removal work is reserved exclusively to the craft and subdepartment from which Petitioners came, the question of the applicability of Rule 9 is at issue herein as well. As in Case and Award No. 65, Carrier is not obligated to recall employees for a temporary vacancy. In this dispute Carrier did opt to recall certain section employees to assist in snow removal work. It did not require the Claimants herein, however, to work during that same four day period. There is nothing in the rules which requires Carrier to recall employees who have been furloughed for short term temporary vacancies such as for the relatively brief five day period of snow removal involved in this dispute.

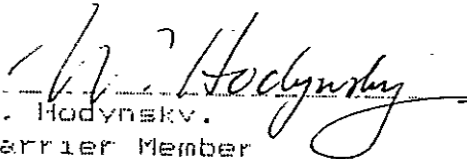
The Board concludes, as in Award No. 65, that the claim is without merit and must be denied.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



W. Hodynsky,
Carrier Member



F. H. Funk,
Employee Member *Dissenting*

St. Paul, Minnesota

June

~~May~~ 24, 1988