

BEFORE PUBLIC LAW BOARD NO. 6043

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION
IBT RAIL CONFERENCE
and
ILLINOIS CENTRAL RAILROAD COMPANY**

Case No. 124

STATEMENT OF CLAIM: “Claim of the System Committee of the Brotherhood that:

1. The Carrier violated Rule 25(c) of the Agreement when it failed to assign Claimants K. Purnell and J. Brooks, II who were regularly assigned as track foreman and trackman, respectively, to perform the track maintenance work of de-icing switches on January 9, 2011, and instead assigned Track Inspectors J. Mabry and J. Mitchell thereto (System File C110304/IC-BMWED-2011-00025 ICE).
2. As a consequence of the violation outlined in Part 1 above, Claimants Purnell and Brooks are entitled to six (6) hours’ pay at their respective time and one-half rates of pay.”

FINDINGS:

The Organization filed the instant claim on behalf of the Claimants, alleging that the Carrier violated the parties’ Agreement when it assigned two Track Inspectors, instead of the Claimants, to perform the work of de-icing switches on January 9, 2011, thereby depriving the Claimants of this work opportunity. The Carrier denied the claim.

The Organization contends that the instant claim should be sustained in its entirety because the Claimants were the regular employees normally assigned to perform the work at issue at the location involved here, because there is no merit to the Carrier’s defenses, and because the requested remedy is proper under all of the relevant circumstances. The Carrier contends that the instant claim should be denied in its entirety because the Organization has failed to meet its burden of proof, because no

violation of the Controlling Agreement has occurred in this matter, because the work at issue does not appear in either the Scope or the Classification Rules, and because the monetary portion of the claim is inappropriate.

The parties being unable to resolve their dispute, this matter came before this Board.

This Board has reviewed the record in this case, and we find that the Organization has failed to meet its burden of proof that the Carrier violated the Agreement when it had track inspectors perform de-icing work for several hours on January 9, 2011.

Rule 16(d) of the controlling Agreement states:

Track inspectors will be allowed to perform incidental tasks which are directly related to the position.

The record reveals that on the date in question, the track inspectors were inspecting tracks and there was a great deal of cold, snowy weather. The track inspectors de-iced some of the switches as they worked their own assignment. This Board finds the de-icing work to be "incidental." The Claimants were working that day on other work.

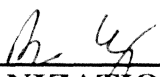
The Organization bears the burden of proof in cases of this kind. In this case, the Organization failed to meet that burden. Therefore, the claim must be denied.

AWARD:

The claim is denied.



PETER R. MEYERS
Neutral Member



ORGANIZATION MEMBER
DATED: 6/26/15



CARRIER MEMBER
DATED: 6/24/15