

**NATIONAL MEDIATION BOARD
PUBLIC LAW BOARD NO. 7357
AWARD NO. 17, (Case No. 17)**

**BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYES DIVISION – IBT RAIL CONFERENCE**

vs

**CP RAIL SYSTEM/DELAWARE AND HUDSON
RAILWAY COMPANY, INC.**

William R. Miller, Chairman and Neutral Member
Kevin D. Evanski, Employee Member
Anthony G. Stillittano, Carrier Member

Hearing Date: July 15, 2015

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

- 1. The Carrier violated the Agreement when it eliminated the Binghamton Grapple Truck Position, but continued to assign the duties of that position to employees assigned to other positions (Carrier File 8-00798).**
- 2. As a consequence of the violation referred to in Part 1 above, we request that Claimant J. Williams be compensated for all time worked by S. Hanyon operating the Grapple Truck beginning October 23, 2010, and continuing."**

FINDINGS:

Public Law Board No. 7357, upon the whole record and all the evidence, finds and holds that Employee and Carrier are employee and carrier within the meaning of the Railway Labor Act, as amended; and that the Board has jurisdiction over the dispute herein; and that the parties to the dispute were given due notice of the hearing thereon and did participate therein.

This claim concerns the Carrier's alleged elimination of a Grapple Truck position in Binghamton, New York, and assignment of the duties of the Grapple Truck to employees assigned to other positions.

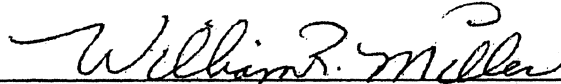
It is the position of the Organization that the Carrier should not have eliminated the Grapple Truck position in Binghamton, New York, if it was going to continue to assign the duties of that position to other employees regularly assigned to fill other positions. It concluded the Carrier violated the Agreement and it requested that the claim be sustained as presented

It is the Carrier's position that the Binghamton Grapple Truck was temporarily assigned on an as needed basis in accordance with Rule 17.1. The Carrier argued that the Grapple Truck was not used with enough frequency so as to require a permanent assigned position be maintained, advertised or awarded. The Carrier further asserted that there has been no showing of a seniority violation because all of the disputed Grapple Truck duties were assigned and performed on the claimed dates by the appropriate class of employees and by a senior employee and it closed by asking that the claim remain denied.

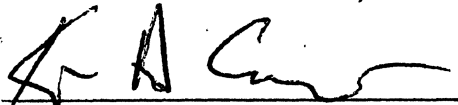
After a careful review of the specific facts of this case, the Board has determined that the Organization has not met its burden to establish that the Carrier violated the Agreement by not maintaining a permanent Grapple Truck Position in Binghamton, New York, beginning October 23, 2010, and continuing. Under the facts presented and cited Rules pertinent to the instant case, the Organization has not established that the Binghamton Grapple Truck was being used with enough frequency so as to require that the position be advertised and awarded. The Board finds and holds that the Organization failed to meet its burden to establish an Agreement violation and the claim will be denied.

AWARD

Claim denied.



William R. Miller, Chairman & Neutral Member



Kevin D. Evanski, Employee Member



Anthony G. Stillittano, Carrier Member

Award Date: 8-3-15