

BEFORE PUBLIC LAW BOARD NO. 7566

CASE NO. 192

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

DIVISION – IBT RAIL CONFERENCE

and

WISCONSIN CENTRAL LTD.

Carrier's File WC-BMWED-2018-00029

Claimant: D. Shykes

STATEMENT OF CLAIM

“Claim of the System Committee of the Brotherhood that:

1. The Carrier violated the Agreement when it failed to offer and assign Mr. D. Shykes to perform the duties of repairing a switch near Mile Post 16.1 on the Iron Range Subdivision on November 3, 2018 and instead assigned Mobile Track Inspector J. Feick thereto (Carrier's File WC-BMWED-2018-00029 WCR).
2. As a consequence of the violation referred to in Part 1 above, Claimant D. Shykes shall now be compensated for four (4) hours at the applicable time and one-half rate of pay, at the applicable Machine Operator B rate of pay.”

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier or employee within the meaning of the Railway Labor Act as approved June 21, 1934.

Public Law Board 7566 has jurisdiction over the parties and the dispute involved herein.

The Organization maintains that numerous Rules govern this claim. Rule 1 provides for the Scope of work and recognizes that that work generally recognized as Maintenance of Way work would remain Maintenance of Way work. The work at issue was usual and customary work and therefore the work of the Maintenance of Way employees. Rule 13K provides that the Carrier cannot change the work generally recognized as belonging to Maintenance of Way employees, yet the Carrier did. Rule 13L

provides the expectations of the parties and what must be met by the Carrier. Rule 13M prohibits supplanting overtime opportunities for Maintenance of Way employees.

The Organization claims that Rule 22 (3) governs this overtime assignment. Further, once the track has been reported as needing repair, a Trackman is responsible for performing the repair. The Organization maintains that the Carrier defenses do not apply and that Rule 8 does not provide the exception the Carrier claims.

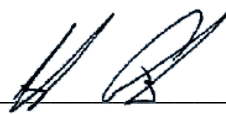
The Carrier asserts the claim is procedurally flawed because the claim was amended from the initial claim of lost overtime opportunity to repair a switch. The amended claim was that the track inspector performed work not incidental to his duties. On the merits, the Carrier argues that there was a reported switch issue. The track inspector swept the switch during the inspection and sweeping out a switch is shared work.

Track Inspector work is governed by Rule 8. Rule 8 Paragraph D provides: "Track Inspectors will be allowed to perform incidental tasks which are directly related to the position." Here, the work involved was sweeping out a switch during an inspection. The facts show that it was incidental work to the inspection. The sweeping of the switch was not a repair and this shared work did not violate the Agreement.

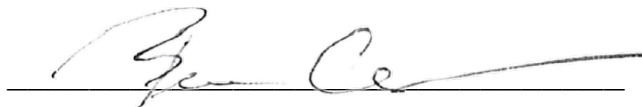
Claim denied.



Patrick Crain
Carrier Member



Adam Gilmour
Organization Member



Brian Clauss
Neutral Member

Dated: December 20, 2023