

PUBLIC LAW BOARD NO. 7566

BROTHERHOOD OF MAINTENANCE)
OF WAY EMPLOYEES DIVISION)
IBT RAIL CONFERENCE)
and)
CANADIAN NATIONAL/WISCONSIN)
CENTRAL LTD.)

Case No. 25
Award No. 25

Claimant: G. Luther

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

1. The Carrier violated Rule 22, Section 3A and Rule 8 of the Agreement when it failed to call and assign Claimant G. Luther, who was regularly assigned to a machine operator headquartered at Green Bay, Wisconsin and instead assigned Mr. B. Bruley to perform the overtime track repair work of fixing a broken rail in the Green Bay Yard on August 23, 2011 (Carrier's File WC-BMWED-2011-00028).
2. As a consequence of the violation outlined in Part 1 above, Mr. T. Cole shall be compensated four (4) hours' pay at his respective time and one-half rate of pay."

Findings:

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.

Parties to said dispute were given due notice of hearing thereon.

The Organization contends that the Carrier violated Rule 8 and Rule 22 when it assigned a Track Inspector to perform a repair to a rail. Claimant, who normally performed rail repair in the Green Bay Yard, should have been called.

The Carrier counters that the Agreement provides that a Track Inspector can perform work incidental to the position. Track Inspector Bruley performed incidental work to the rail. Further, two employees also performed the rail repair.

The Organization bears the burden. The Organization has met that burden and established that the Track Inspector was performing more than work incidental to his position as a Track Inspector. While some work on the track is incidental to the position, performing a track repair that took hours is not incidental. Claimant should have been called.

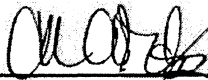
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Award:

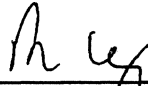
The claim is sustained and the Carrier must afford the Claimant the remedy requested in Part 2 of the claim within thirty (30) days of the effective date of the Award.



Brian Clauss, Chairman



Cathy Cortez, Carrier Member



Ryan Hidalgo, Organization Member

Signed on November 10, 2015