

SPECIAL BOARD OF ADJUSTMENT No. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
and
ERIE LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by allowing employees of the Serafini Construction Company, not covered by the scope of this Agreement, to perform Crossing Watchmen's work at a temporary grade crossing, West of Mile Post 210, and East of Binghamton, N. Y., beginning on or about June 10, 1963 and continuing.

2. Crossing Watchman Mr. Anthony Haduck be now compensated at his respective hourly rate, for an equal number of hours as was worked by the non-scope employees of the Contractor, in the performance of this Crossing Watchmen's work, beginning June 10, 1963 and continuing until this violation of the Agreement ceased.

FINDINGS:

Under the terms of an agreement between Carrier and Serafini Construction Company, the latter was licensed to construct and use a temporary private crossing of Carrier's tracks and was required to furnish its own watchmen at the crossing facilities.

Petitioner maintains that it was wrongful to use watchmen outside the scope of the Maintenance of Way Agreement. However, the record does not support Petitioner's theory since neither the Maintenance of Way Agreement nor tradition, custom or past practice gives its members the exclusive right to serve as watchmen at private crossings.

The claim, therefore, will be denied.

AWARD:

Claim denied.

Dated at New York, N. Y., this 10th day of March, 1965.

/s/ Harold M. Weston
HAROLD M. WESTON, REFEREE

/s/ Arthur J. Cunningham
ORGANIZATION MEMBER

/s/ R. A. Carroll
CARRIER MEMBER