

SPECIAL BOARD OF ADJUSTMENT NO. 541

PARTIES TO DISPUTE:

Brotherhood of Maintenance of Way Employees

Erie Lackawanna Railway Company

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by assigning to or allowing the work of operating the Division Inspection Car on the Buffalo and Rochester Division by a non-scope employee; namely, Trainmaster Mr. J. W. Connors, on Saturday, October 5, 1963 and subsequent dates thereafter.
2. Division Inspection Car Operator Mr. Harry Buchert be now reimbursed for all hours involved in this violation of the Agreement, including straight time, time and one half or double time, whichever it may be, beginning October 5, 1963 and continuing until this condition has been corrected.

FINDINGS:

Petitioner contends that Carrier is violating the Scope Rule of their Agreement by having a trainmaster operate a hi-rail station wagon. According to Petitioner, these vehicles have replaced the division inspection car that formerly was assigned to each division office. Division inspection cars are expressly covered by the provision of the Scope Rule that reads as follows:

"Operators of tie tamper compressors of 210 cubic feet capacity or over, mole ballast machines, tie scoring machines, division inspection cars, mowing machines, weed discers, bolt tighteners, grinding and beveling machines, power jacks, weed burners and rail joint oiling machines and similar roadway machines."

There are a number of significant distinctions between hi-rail station wagons and the division inspection cars as well as the other machines mentioned in the provision just quoted. The station wagons are considerably lighter, more mobile, do not activate signal circuits and readily operate on highways as well as on rail; they are used for a variety of purposes, including assignments that undisputedly do not violate the applicable Agreement.

There is no indication that the station wagon has been used to transport maintenance of way employees or materials and the evidence is not sufficient to establish that it has been operated, to a substantial extent, for track inspection purposes, and as a replacement for the "division inspection cars" mentioned in the Scope Rule.

In the light of these circumstances, the claim will be denied.

AWARD: Claim denied.

Adopted at Cleveland, Ohio, October 16, 1974.

/s/ H. M. Weston  
H. M. Weston, Chairman

/s/ R. A. Carroll  
R. A. Carroll, Carrier Member

/s/ A. J. Cunningham  
A. J. Cunningham, Employee Member