
MAINE CENTRAL RAILROAD COMPANY * PUBLIC LAW BOARD 4068
PORTLAND TERMINAL COMPANY * CASE NO. 35
AND * CLAIM NO. T-85-330
UNITED TRANSPORTATION UNION * DATE OF AWARD: APRIL 3, 1987
(C & T) *

On February 4, 1987 the undersigned Public Law Board 4068 met in Portland, Maine to resolve the following dispute. Bradley L. Peters represented the Carrier. E. A. Phillips represented the Union.

STATEMENT OF CLAIM

"Conductor E. I. Frager, Trainmen J. M. Griffin and M. T. Riegel, time slip No. A dated 10-22-84 . . .
"Claim 100 miles account B & M crews perform work that belongs to Maine Central crews." (Similar claims T-85-331, T-85-332, T-85-333, T-85-334, T-85-335, T-85-336, T-85-337, T-85-338, T-85-339, and T-85-340 to be handled in the same manner as this claim.)

THE FACTS

On October 22, 1984 the Carrier used a B & M train crew to operate from Whitefield, New Hampshire to Twin Mountain where it did switching service setting cars for stone loading and then hauling the load back to Whitefield, New Hampshire all on Maine Central tracks. The B & M has trackage rights over this track. The crushed rock the crew used had been piled up for use on the Maine Central Market Division but is not now needed.

Conductor E. I. Frager, Trainmen J. M. Griffin, and M. T. Riegel filed the present claim alleging a violation of Article 3 (j) and claiming that they should have been assigned to do the disputed work.

CONTENTIONS OF THE UNION

The Union contends that although the B & M had trackage rights over the track, it was only for the purpose of moving B & M trains. B & M itself has never picked up and/or set off cars enroute over this track. It argues that the Maine Central crew should have been called since the work belonged to the claimants.

CONTENTIONS OF THE CARRIER

The Carrier contends that the 1932 Trackage Agreement calls for joint operating rights, and although not used frequently in recent years are still in effect. It asserts the B & M crews had every right to operate their work train, were handling only their own work train and were performing work only for that Carrier. The crew, it asserts, did not perform any Maine Central work. It urges the claim be denied.

DISCUSSION

There is no question of the right of the B & M to operate over the Maine Central trackage in this area. Here, however, the B & M crew not only moved the crew over the Maine Central trackage, it also performed work on the trackage as well. To hold as the Carrier argues would result in an expansion over the traditional interpretation of trackage rights as "bridge" rights and would open the door to B & M crews doing other work beyond mere travel over the rails which is ancillary to the use of the track, while eroding the protections afforded to Maine Central crews for work performance in the areas of joint trackage rights.

Accordingly, the claim must be sustained.

AWARD

The claim is sustained and shall be implemented within 30 (thirty) days of the date of this award.

Arnold M. Zack

Arnold M. Zack, Chairman and
Neutral Member

Braley L. Peters

Braley L. Peters, Carrier Member

E. F. Lyden

E. F. Lyden, Union Member