

PUBLIC LAW BOARD No. 1680

Award No. 25
Case No. 25

PARTIES TO DISPUTE:

Elgin, Joliet & Eastern Railway

and

United Transportation Union

STATEMENT OF CLAIM:

"ZY-25-73
5/29/73

Claim of Yardman J. Madonich and crew
for one day's pay account EJ&E Truck
112 moving cars on #1 track in New Yard."

FINDINGS:

On the claim date, Maintenance of Way personnel were called to perform repairs on a section of track in the "New Yard" at South Chicago. Standing on the track to be repaired were three empty hopper cars. The Maintenance of Way personnel used their truck to pull the three hopper cars a sufficient distance in order that they could work on the section of track to be repaired. Claimants filed a claim contending that the work performed, viz. pulling the cars out of the way constituted work reserved exclusively to Yardmen.

The Organization relies on Article 1 of the agreement between parties as the basis for the claim. Article 1 provides:

"All switching, transfer of freight equipment, construction, maintenance of way and work trains working within yard limits will be yard work and performed by yardmen and compensated for at yard rates. Yardmen whose work takes them outside yard limits will receive not less than yardmen's rates."

The Board finds that the work complained of was not "switching" as contemplated by the rule, but merely a movement of cars incidental

to and in connection with maintenance of way work.

In First Division Award No. 16577, the Board found, in pertinent part:

"The line between maintenance of way and work train service is not always easy to ascertain. The line in each instance, it seems, must depend on the facts of that case. It can only be generally defined. It would appear that the following is about as accurate as any definition could be: If the thing done is an incident and an integral part of the work being performed in maintenance of way, it is work properly to be performed by that class, otherwise it is not.

"Here the pile driver took with it a flat car containing four foundation pilings to the place where the maintenance of way crew was working, all within switching limits. The pilings were driven and, thereafter the pile driver returned with the flat car. There is no evidence of switching or other use of the flat car.

"Under these circumstances, all of which appear in a joint statement of facts, it seems fair to say that what was done was appropriately an incident and an integral part of the movement of the pile driver to the point in question and the driving of the piling, and in consequence properly performed by the maintenance of way class."

AWARD

Claim denied.



Neutral Member



Carrier Member



Organization Member

Date: October 5, 1919