

PUBLIC LAW BOARD NO. 3572

PARTIES) NORFOLK AND WESTERN RAILWAY COMPANY  
TO )  
DISPUTE) UNITED TRANSPORTATION UNION

STATEMENT OF CLAIM: Claim listed in favor of Conductor L. C. Wade, Brakemen L. A. Canaday and R. Flaim, February 26, 1986, for 100 mile day, account Coal Co. employees using N&W Eng. 894 to perform mine run switching at East Gulf Mine. This switching is performed in the mine track and on the main line between Mile Post 3 and 4 on main line of Stone Coal Br. and Coal Co. employees are moving cars from East Gulf Mine to Riffles Br. about .7 of a mile from East Gulf Mine and in no way is it connected with East Gulf Mine. This is the only claim that will be filed for this violation other than claims of this nature will be filed as subsequent claims.

FINDINGS: This Public Law Board No. 3572 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute Virginian crews have performed all switching service necessary for the East Gulf Mine, located on the P&D District. In July of 1985 the Maben Energy Corporation, owner of the East Gulf Mine, proceeded to increase the total output of the mine. The tonnage produced increased substantially, however, there was an inadequate amount of trackage at the mine for storage.

Maben Energy Corporation and the Norfolk and Western Railway Company entered into a series of temporary track leases wherein the number of tracks for storage of cars at the mine was increased from capacity of fifty to capacity of approximately one hundred cars.

The Carrier also sold N&W locomotive No. 894, an EMD GP9, to Raleigh Leasing Company of Beckley, West Virginia, to be used by the Coal Company employees to load out at East Gulf Mine. Maben Energy is part owner of Raleigh Leasing and Maben Energy employees were to perform the work.

Under this arrangement, the Coal Company could load and place thirty plus cars of coal on Riffes Branch siding and approximately forty loads could then be placed by the Coal Company on East Gulf siding between the switch leading from Riffes Branch siding and the crossover at Station 193.

Approximately twenty-five hundred feet of trail track above

and beyond was what was already leased to the Coal Company was leased to the Coal Company to achieve this increased track storage capacity. Thereafter, the Carrier placed empty hoppers to the mine up past the tipple, and the loads were then placed on the leased passing tracks on Riffes Branch by the mine company engine where N&W crews picked them up.

This claim was filed account "Coal Company employees using N&W engine 894 to perform mine run switching at East Gulf Mine . . . ."

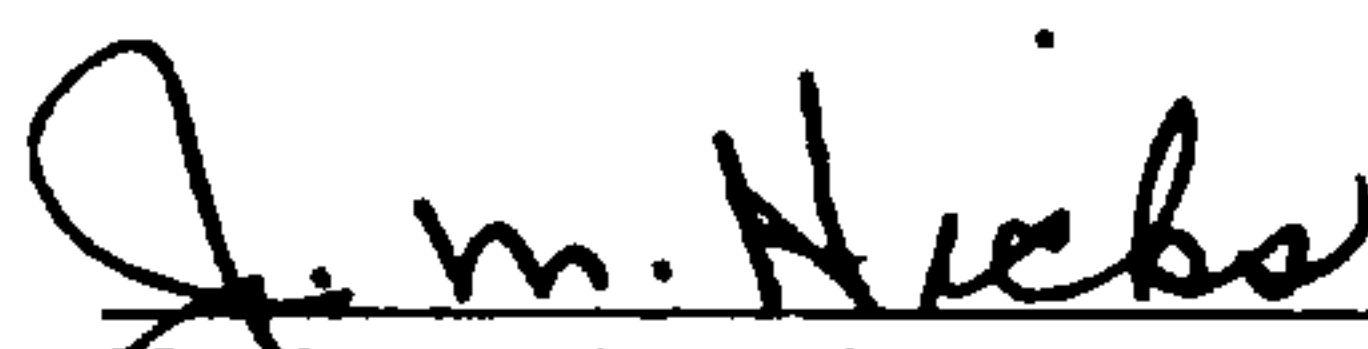
The Union contends that the switching performed on the main line of Stone Coal Company constitutes the classifying of cars.


The evidence has established that the Carrier has leased the tracks in question to the industry (Maben Energy Corp.) and has sold the locomotive being used by that company. Many awards have established that there is nothing which prevents the Carrier from leasing or selling tracks to an industry. After the tracks are sold, the work therein previously no longer belongs to the Carrier.

The mine company engine did not handle any cars other than the cars involved with the Coal Company, and the Coal Company did not switch cars for the benefit of any other industry. All of the switching performed herein by the industry was for the convenience of the industry and was performed on industry tracks leased from the Carrier. The industry did not classify any cars which could be deemed to belong to the employee of the Carrier.

AWARD: Claim denied.

  
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Preston J. Moore, Chairman

  
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Union Member

  
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Carrier Member

March 19, 1987