

The Second Division consisted of the regular members and in addition Referee Abraham Weiss when award was rendered.

Parties to Dispute: { System Federation No. 16, Railway Employees'
Department, A. F. of L. - C. I. O.
(Carmen)
{ Norfolk & Western Railway Company

Dispute: Claim of Employees:

1. That the Norfolk and Western Railway Company violated the controlling Agreement and Article I of Memorandum of Agreement dated October 5, 1965 when it failed to call Carmen A. W. Kelley and J. Samol to rerail five (5) freight cars in Bison Yard, Buffalo, New York, on November 29, 1976.
2. That the Norfolk and Western Railway Company be ordered to compensate Carmen A. W. Kelley and J. Samol seven (7) hours at the time and one-half rate applicable to Carmen for November 29, 1976.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

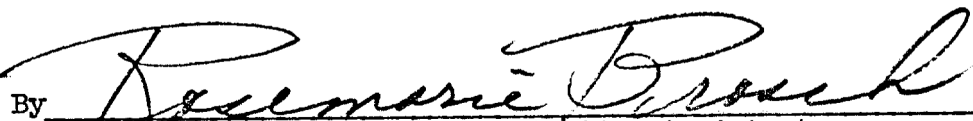
This claim is similar to one filed by Petitioner upon Carrier and previously considered by this Board in Award No. 8286. The jurisdictional issue in the instant case is identical to that considered in Award No. 8286. The instant claim is dismissed for the same reasons discussed in Award No. 8286.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attést: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of March, 1980.