

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12538
Docket No. 12496-T
93-2-92-2-29

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

PARTIES TO DISPUTE: (Union Pacific Railroad Company
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(International Brotherhood of Electrical
(Workers

STATEMENT OF CLAIM:

"1. Did the Union Pacific Railroad Company violate Rules 122, 123 and Ruling 19 of the Schedule Agreement between the International Brotherhood of Electrical Workers and the Union Pacific Railroad Company dated November 1, 1976 when, under emergency circumstances, it failed to recall the claimant from furlough and instead, as the Organization alleges, sent a B&B Carpenter to perform electricians' work?

2. Is the claimant entitled to compensation for time lost in the amount of 8 and 1/2 hours at the time and one half rate for March 28, 1991; 16 hours at the double time rate for March 29, 1991; and 30 hours at the double time rate for March 30, 1991?"

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.

As Third Party in Interest, the Brotherhood of Maintenance of Way Employes was advised of the pendency of this dispute, but chose not to file a Submission with the Division.

This claim arose following a train derailment on March 28, 1991. The Carrier utilized a B&B Carpenter to perform certain work that the Organization claims is within its Classification of Work Rule. The Organization contends that the Claimant, who was on furlough at the time of the derailment, should have been recalled to do the work performed by the B&B Carpenter.

At the outset, the Board notes that a number of procedural and jurisdictional issues have been raised by the parties. For example, is this particular claim progressed by the Carrier to the Board properly before us? An almost identical claim has been filed by the Organization (Docket No. 12509). The Board, after careful consideration of these issues and in full recognition of the arguments presented by the parties finds that the dispute is properly before us for resolution.

With respect to the substantive elements of this claim, certain arguments and contentions have been presented by the parties in their Submissions to the Board that were not raised on the property. As an appellate body, we are constrained from examining these in our deliberations in this matter.

The Board finds that it is not possible from the record to ascertain what specific tasks the B&B Carpenter actually performed at the derailment site. The record appears to be made up of contentions and counter-contentions rather than of an orderly presentation of the facts and issues. In summary, therefore, because we are unable to determine on the basis of the record properly before us what work was performed by the B&B Carpenter, the claim must be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever, Secretary To The Board

Dated at Chicago, Illinois, this 23rd day of June 1993.