

Award No. 3717
Docket No. 3355
2-P&LE-TWUOA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION OF
AMERICA, A. F. of L.—C. I. O.**

**THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY
AND THE LAKE ERIE AND EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

On January 1, 1958, the job that was held by Car Inspector H. Seely was cut off due to a holiday at Lansingville.

Then on this same day Car Inspector W. Johnson was brought from the East Yard to perform the work on the same job that should have been done by Car Inspector H. Seely at Lansingville.

Since H. Seely was cut off for this day and then another employe brought in to do his job, the Organization requests that the Carrier compensate Car Inspector Seely eight (8) hours at the punitive rate of pay for January 1, 1958.

POSITION OF EMPLOYEES: That the job held by Car Inspector H. Seely at Lansingville was his job by advertisement and award and when it worked on January 1, 1958 he was entitled to work the job.

That the carrier after cutting off this job on account of the holiday had no right to call or use any other employe on H. Seely's job, but should have used H. Seely if the job worked.

That since the carrier did use another employe to do the work that should have been done by H. Seely, that H. Seely be compensated eight (8) hours at the punitive rate of pay for January 1, 1958.

CONCLUSION:

The Organization submitted the case to Mr. A. B. Bjork, Master Mechanic-Car under date of January 23, 1958.

The carrier respectfully submits that the employes have failed to cite any rule of the Agreement that was violated.

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 were given due notice of hearing thereon.

Claimant was one of three second shift car inspectors going on duty at Lansingville Yard. No work being expected, the three jobs were cut off on the holiday in order to reduce holiday work to a minimum as required by the agreement, but some work subsequently developed and a car inspector who went on duty at another yard was sent to perform the work. The employes contend that the work at Lansingville Yard belonged to claimant and he should have been used to perform it. No issue of seniority was raised on the property or here until it was raised on rebuttal.

As held in Awards 3144, 3208 and 3337, all involving the same parties and the same agreement as the present claim, the only service boundaries for car inspectors established by the agreement are the seniority districts and a car inspector has no prior right to work because it arises at his headquarters point. Those awards should control us here.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of March 1961.

DISSENT OF LABOR MEMBERS TO AWARD No. 3717

The Claimant was awarded and holding his position under Rule 39 — a seniority rule. The employes cited this fact in the submission presented to this Board. Therefore he had a prior right to work his position on the holiday.

James B. Zink
Edward W. Wiesner
R. W. Blake
Charles E. Goodlin
T. E. Losey