

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6787  
Docket No. 6629  
2-BNI-CM-'74

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute:      { System Federation No. 7, Railway Employees'  
                                 { Department, A. F. of L.      -      C. I. O.  
                                 { (Carmen)  
                                 { Burlington Northern, Inc.

Dispute: Claim of Employees:

1. That the Burlington Northern Inc. violated Rule 30 of the current agreement and Article V of the September 25, 1964 Agreement when other than Carmen made an air test and mechanical inspection on B.N. Extra 403 at approximately 11:00 P.M. on March 30, 1972 in the Duluth-Superior yard.
2. That accordingly the Burlington Northern Inc. be ordered to compensate Carman G. LaJoie in the amount of a four (4) hour call.

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.

A careful review of the record in this dispute compels the conclusion that there was no probative evidence that Carrier notified or advised the Lead Carman that there was work to be performed on Train No. 403. Despite Carrier's assertions that he was called, the Lead Carman's statement in the record that he was not called was not refuted by Carrier. Under the factual circumstances of this dispute, such failure resulted in a violation of Article V of the September 25, 1964 Agreement and Rule 30 of the schedule agreement.

Accordingly, the claim must be sustained.

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A W A R D

Claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 25th day of November, 1974.