

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Duluth, Missabe and Iron Range Railway Company

Dispute: Claim of Employees:

1. That under the current agreement the Duluth, Missabe and Iron Range Railway Company improperly assigned other than carmen to make repairs to iron ore car consisting of removing and applying air hose on August 27, 1973, Iron Ore Docks, Duluth, Minnesota.
2. That accordingly the Carrier be ordered to additionally compensate Carman D. L. Erickson in the amount of four (4) hours at the applicable rate for this violation.

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 employees 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.

Carrier maintains a train yard at the Iron Ore Docks, Duluth, Minnesota where carmen are employed on all three shifts, seven days per week. On August 27, 1973, an ore car within the yard limits at the Iron Ore Docks was found to have a ruptured air hose. A yard trainman was used to inspect, remove and apply an air hose to the iron ore car although a carman was on duty and available to perform said work.

It is the Organization's contention that the removal and attendant replacement of a ruptured air hose, in yards where carmen are on duty, is maintenance and repair work reserved to carmen by virtue of their Scope Rule and Classification of Work Rule. Since the work in question is reserved to carmen, claimant, a carman on his rest day, was available and should have been called to perform it.

Carrier denies that the Classification of Work Rule reserves the work of replacing defective air hoses exclusively to carmen. Rather, they maintain that Rule 77 is a general Classification of Work Rule which makes no specific reference to the replacement of air hoses. Moreover, the Carrier argues that employees in train service have always replaced air hoses.

Carrier's argument to the contrary notwithstanding, it is the opinion of this Board that Rule 77, the Carmen's Classification of Work Rule, reserves to carmen the work of replacing defective air hoses in yards where carmen are on duty. Rule 77 provides, in pertinent part, that carmen's work shall consist of maintaining passenger and freight cars. When a yard trainman was required to replace a defective air hose, he was thereby required to perform maintenance work that is reserved to carmen by Rule 77.

Although the Organization and the Carrier have alleged a past practice that purportedly supports their respective positions, in the light of the conflicting nature of this evidence little reliance can be placed on the alleged past practice. And in any event, Rule 77 clearly and unequivocally reserves the work in question to carmen.

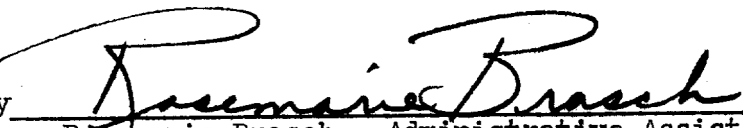
Inasmuch as the Agreement was violated, we deem four hours pay as provided by the call rule an appropriate measure of damages.

A W A R D

Claim 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 23rd day of July, 1976.