

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

Parties to Dispute: { United Steelworkers of America
District No. 28, AFL-CIO-CLC
{
{ Lake Terminal Railroad Company

Dispute: Claim of Employees:

- (1) On March 20, 1978 at approximately 8:10 A.M., Supt. Mechanical J. Uldrich, General Car Foreman J. Justice, Ass't. Trainmaster B. Sultzter, M of W Foreman J. Tagliovoni and several M of W employees rerailed C&O Gondola 35597 on Track 1-A at the 14R switch. This action is a premeditated and deliberate violation of Scope Rule 16(d) and Definitions (4) of the controlling agreement.
- (2) As penalty for this violation it is requested that the Carrier compensate the following named employees eight (8) hours at their respective rates, in addition to all other earnings: D. Burgos #24; W. Melendez #66; F. Torres #22; and R. Riggen #1469.

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.

It is clear from the record that the principles associated with the claim have been adjudicated on numerous occasions by this Board.

As a matter of fact, the organization in its submission points out that Second Division Award 5912 rendered on the same property denied a case identical to the one here under consideration. In presenting this claim it maintains that the award did not take into consideration that the organization based its previous grievance on a violation of the scope rule and not the contractual language which was adjudicated. It is axiomatic that a scope rule standing alone is almost meaningless. The parties negotiate a complete contract with provisions which circumscribe, define, and give meaningful application to such rules. In the case at bar, past practice and numerous awards have interpreted sections of the contract which obviously were negotiated to further refine the meaning and application of the scope rule. This Board can find no reason to differ with these previous

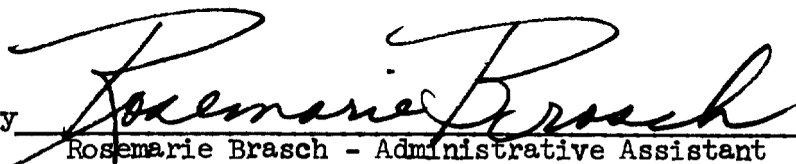
awards. Accordingly, we find that for reasons spelled out in Award 5912 together with its attendant award references, the carrier did not violate the agreement.

A W A R D

Claim denied.

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 26th day of March, 1980.