

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: { System Federation No. 16, Railway Employees'
Department, A. F. of L. - C. I. O.
(Carmen)
{ Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That the Norfolk and Western Railway Company violated Article I (a), Memorandum of Agreement dated October 5, 1965, on June 2, 3, 4, 5, and 6, 1977, at Bison Yard, Buffalo, New York.
2. That the Norfolk and Western Railway Company be ordered to compensate the following named Carmen, who were ready, willing and available to work and should have been called to perform work, on the respective dates/shifts mentioned below, in the amount of eight (8) hours at the time and one-half rate applicable to Carmen's rate of pay:

<u>Carmen</u>	<u>Date</u>	<u>Shift</u>
R. Szutlita	June 2, 1977	First
M. Skotnicki	June 2, 1977	Second
S. Lesakowski	June 3, 1977	First
W. Kretz	June 4, 1977	Third
G. Letina	June 4, 1977	Third
J. Koblinski	June 5, 1977	Third
R. Lesinski	June 6, 1977	Second

3. That the Norfolk and Western Railway Company be ordered to compensate Carmen W. Kretz for three and three-quarter (3 3/4) hours at the time and one-half rate applicable to Carmen's rate of pay for June 2, 1977, on the First Shift, at Bison Yard, Buffalo, New York.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

This is a claim brought by seven carmen to recover pay for work time allegedly lost when the carrier failed to call claimants pursuant to the rules established

to operate the Bison Yard in Buffalo, N.Y. The Bison Yard is jointly maintained by the Carrier and Consolidated Rail Corporation. The claimants assert that the number of carmen positions in the yard have been improperly allocated between the joint yard operators depriving the claimants from working certain shifts.

The coordinated operation of the Bison Yard is governed by the October 5, 1965 Agreement which incorporates, pursuant to Order of the Interstate Commerce Commission (Finance Docket No. 21820), the terms and conditions for the protection of employees described by the Washington Agreement dated May 21, 1936. As we have ruled recently in Second Division Awards Nos. 8286, 8287, and 8288, (Weiss), the Washington Agreement provides the exclusive forum for adjudicating the type of claim presented here. In accord with those decisions, this Board lacks the jurisdiction to consider the claim and we must deny the claim based on the reasons set forth in Second Division Award No. 8286 (Weiss).

A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of July, 1980.