

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

Parties to Dispute: ( Brotherhood Railway Carmen of the United States  
( and Canada  
(  
( Burlington Northern Inc.

Dispute: Claim of Employees:

- 1) That the Burlington Northern, Inc. violated the terms of the controlling Agreement, specifically Rules 12, 96 and Appendix "A", when it denied C. P. O'Connell, Pasco, Washington, the six (\$.06) cent per hour differential paid Carmen assigned as write-up men.
- 2) That accordingly, the Burlington Northern, Inc. be ordered to additionally compensate Carman C. P. O'Connell \$.06 per hour for each hour of service performed as a write-up man, commencing April 17, 1978 and continuing until Burlington Northern, Inc. complies with the Agreement.

### 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.

This claim is essentially a request for the continuation of a six cent (0.6.) differential in pay afforded Mr. O'Connell for some period of time which the Organization alleged was a mistake when the payment was discontinued.

The carrier has a yard at Pasco, Washington, which has a heavy repair track. It also has a track 16 "mini track" where light repairs are made. Claimant was assigned as a carman on track 16 where he performs repairs of a nature which could be performed in the train yard.

The record indicates that there had been previous discussions relative to the Organization's claim that assignments on track 16 constituted assignment to a repair track and hence should be paid the six cent differential afforded write-up men in the contract. The carrier denied that claim and pointed out that the position was not new and there was no provision in the contract for differential pay when carmen only do their own writing up as was done on Track 16 and in the yard. Some time later the specific claim under consideration was presented the carrier.

The Claimant had been afforded the differential rate upon assignment to track 16 by a foreman who was new on the job. When the alleged error was discovered by the General Foreman the differential rate was stopped. This claim is an appeal from that decision. There is controversy in the record with respect to whether or not the time limit rule is applicable in view of previous discussions and the filing of the instant claim. A careful review of the record indicates that in this case that controversy need not be resolved in order to dispose of the claim.

The carrier points out that the rate of pay is determined by the work actually performed. The differential is afforded a carman who works at a repair track where major repairs are made. He is required to have knowledge of numerous laws and rules. He is required to inspect cars repaired by other employees to see that repairs are properly made before he writes it up and certifies that the work was properly accomplished. In the case of track 16, Claimant is a carman. He is responsible only for his own work and hence not entitled to the six cent differential. It further points out that track 16 is not a repair track but is a part of the yard where only minor repairs are performed.

The Organization, although it refers to track 16 as a "mini track", contends that the same function is performed on that track as on the main repair track. However, it offers no convincing evidence that the work is the same. It relies more on the payment of differential, which the carrier claims was an error, and other factors which have no real bearing on the work performed.

The gravamen of the claim resides in the work performed on track 16. A careful review of the record simply does not provide this Board with proof that the work accomplished there qualifies Claimant for the differential pay sought.

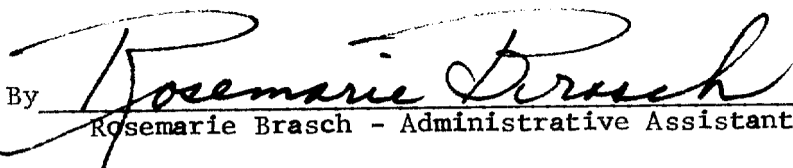
Therefore we cannot sustain the claim.

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 4th day of March, 1981.