

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Duluth, Missabe & Iron Range Railway Company

Dispute: Claim of Employees:

1. That the Duluth, Missabe and Iron Range Railway Company violated the controlling Agreement, particularly Rule 29(a) and Rule 57 when they improperly assigned other than the carmen's craft to adjust a shifted load of pulpwood on the repair track at Proctor, Minnesota, on September 10, 1980.
2. That accordingly, the Duluth, Missabe and Iron Range Railway Company be ordered to compensate Carman J. T. Hannan four (4) hours at the pro-rata rate for September 10, 1980.

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.

On September 10, 1980, the Car Foreman at the Carrier's Proctor repair track used a chain saw to cut the ends of logs which had shifted in Gondola No. 3944. The Organization charges the Carrier with violating Rules 29(a) and 57 of the applicable agreement for allowing a supervisor to perform work consisting of the adjustment of shifted loads on the repair track. Claimant, a carman at Proctor, seeks four hours of pay at the straight time rate.

We recently considered a similar dispute between these same parties in Second Division Award No. 9142. The decision in that claim disposes of the Organization's allegation that the Carrier acted in violation of Rule 57.

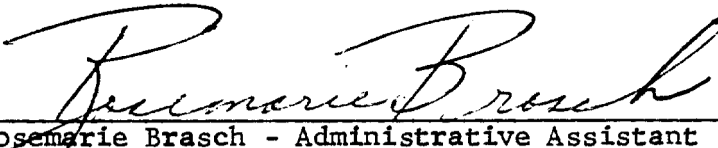
However, this claim so far as it is premised on Rule 29(a) of the scheduled agreement is readily distinguishable from our previous decision. When the gondola was on the repair track for the adjustment of the shifted load, the car Foreman should have assigned a mechanic to perform the disputed work. This Division has ruled in cases too numerous to list that a foreman may not perform work which is beyond the scope of normal supervisory duties and functions. Thus, we will sustain the claim as presented due to the violation of Rule 29(a).

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1982.