

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That the Louisville and Nashville Railroad Company improperly repaired L&N 43309 and L&N 43434 when they allowed the repair work to be performed by Maintenance of Way Employees, Foreman Mems and two other M of W Employees on October 31, November 5, 7, 8, and 9, 1979, at Creole, Mississippi.
2. Accordingly, that three Carmen on the Mobile, Alabama Repair Track Miscellaneous Overtime Board be compensated eight (8) hours each for each of the five dates listed (October 31, November 5, 7, 8, and 9, 1979) and that they be allowed the compensation from the following list of Carmen from the Sibert Shop Miscellaneous Overtime Board:

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|-------------------------------|-----------------------------|
| 1. J. M. Morris #340320 | 8. D. E. Wolfe #340343 |
| 2. A. R. Gregg #340362 | 9. J. L. Davis #340404 |
| 3. H. McCants #342124 | 10. D. W. Pruitt #340405 |
| 4. R. E. Phelps #340409 | 11. J. C. Crook #340435 |
| 5. C. A. Vickey #340392 | 12. C. R. Norwood #340347 |
| 6. J. E. Holland #340450 | 13. M. A. Maherg #340347 |
| 7. C. N. Faulkenberry #340424 | 14. W. E. Blanchard #340333 |

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 employes 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.

During October and November, 1979, Maintenance of Way AFE Gang No. 9-53 was working in the vicinity of Creole, Mississippi. Members of the gang are housed in camp cars and travel over Carrier's line of road during their workweek. Two of the camp cars assigned to the gang - L&N 43309 and L&N 43434, required minor repairs. Consequently, Maintenance of Way employees assigned to the gang performed these minor repairs which consisted of repairing the doors and windows and painting the floors of the two camp cars.

The Employees insist that the aforementioned work belonged to Carmen by virtue of Rule 30 (Assignment of Work); Rule 104 (Classification of Work); and Rule 116 (Repairing Cars on Road). Consequently, the claimants are entitled to be compensated for the time expended by Maintenance of Way employees performing work contractually reserved to them.

In the light of the particular circumstances involved in this dispute, it is the considered judgment of this Division that the work in question was not reserved to Carmen on this property. It must be stressed that the work claimed by the Carmen involved minor repairs to the windows and doors on camp cars, and painting the floors of those cars. This work was performed on Carrier's line of road some 35 rail miles from the Shops at Mobile, Alabama where the claimants were assigned. Carmen were not available at Creole, Mississippi to perform this work.

On this property, camp cars are not passenger or freight cars within the meaning of Rule 104, Classification of Work. Consequently, the work in question was not specifically reserved to Carmen although it clearly would have been had it been performed at the Shops in Mobile, Alabama. Nor have Carmen exclusively worked on camp cars away from the Shop on this property. Rather, Maintenance of Way employees have performed minor repairs on these camp cars located on the line of road for many years. In the light of this, there was obviously no system-wide practice of assigning this work exclusively to Carmen.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 

Nancy J. Zever
Executive Secretary

Dated at Chicago, Illinois, this 7th day March, 1984