

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Duluth Missabe and Iron Range Railway Co.

Dispute: Claim of Employees:

1. That the DM & IR violated the terms of our Current Agreement in particular Rule 57, when they assigned other than carmen to make repairs consisting of inspecting, and replacing B.O. air brake hoses on two (2) ore cars at Duluth Ore Docks on January 14, 1982.
2. That accordingly, the DM & IR be ordered to compensate Carman John Botten in the amount of four (4) hours of the straight time rate, for his class for January 14, 1982.

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.

A claim was filed on behalf of Carman John Botten for four (4) hours at the straight time rate because a mechanic of another Craft replaced two defective air brake hoses at the Duluth Ore Docks. The record reveals that an Electrician changed the two hoses and the Organization filed this claim for the Carman who was available for call and qualified to perform the work.

A careful analysis of the facts demonstrates that only the Electricians of all the Shop Crafts were assigned at the Duluth Ore Docks. Other Shop Craft employees, including Carmen, are assigned at the Proctor Yard; a point separate and distinct from the Ore Dock facility.

This case does not involve a jurisdictional dispute between the Carmen and the Electricians over the changing of air hoses. The Carrier acknowledges that the work in question belongs to the Carmen's Craft under its Classification of Work Rule. The gravamen of this dispute is the performance of the Carmen's work by mechanics from other Shop Crafts.

The Organization makes two arguments to support its claim in this case. First, it argues that Carmen were on duty and should have been used. Under the interpretation, the Organization rejects the application of Rule 29 (b) which was utilized by the Carrier:

"Rule 29, Assignment of Work

- (b) At points other than Proctor and Two Harbors where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will, so far as capable, perform the work that may be necessary."

Second, the Organization contends that the Carrier's past practice has included the payment of four (4) hours, as requested in this case, whenever mechanics from another Craft performed similar Carmen's work.

Nevertheless, we find the Carrier's contentions persuasive. There were no Carmen assigned to the Duluth Ore Docks and thus, Rule 29 (b) provided the Carrier with the necessary latitude to assign Electricians the work in question at that point.

In Second Division Award 7832, this Board was faced with a very similar claim and Assignment of Work Rule. In that Award, as in the instant case, the Organization contended that various work locations constituted a single point in the application of the Assignment of Work Rule. The Board rejected that contention and held that the several work locations were to be considered separate points for the application of the Rule. See Second Division Award 5613.

Following the logic of Second Division Award 7832, we conclude that the Duluth Ore Docks constitute a separate point in the application of Rule 29 (b). Thus, no Carmen were at that point. Proctor Yard is a separate facility over six (6) miles away.

Thus, we hold that Rule 29 (b) is applicable in this case and grants the Carrier flexibility to use mechanics from other Crafts to do the work of a Craft not having a mechanic employed at that particular point. See Second Division Award 6729.

The Organization's past practice argument regarding the payment of a four-hour call on each occurrence is not well founded as these payments were erroneously made by lower level officials of the Car Department without authority from the appropriate Carrier official.

This Board has rejected similar arguments on many occasions based upon the well established principle, "that payments by operating officers without the knowledge or final approval of the officer authorized to make and interpret the Agreement are not binding (see Third Division Awards 18064 and 20337 among others)".

It is clear that Rule 29 (b) was written to provide relief to the Carrier in situations where there is not sufficient work at points to justify employing a mechanic of each Craft. Here, the Carrier correctly followed the provisions of Rule 29 (b) and properly assigned the work of changing defective air brakes to another mechanic.

Form 1
Page 3

Award No. 10257
Docket No. 9929-T
2-DM&IR-CM-'85

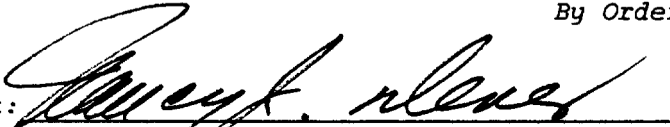
We must conclude that Petitioner has not demonstrated a violation of any Agreement Rules by the Carrier. Therefore, the claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 6th day of February 1985.