

The Second Division consisted of the regular members and in addition Referee John J. Mikrut, Jr. when award was rendered.

Parties to Dispute: (Brotherhood of 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 violated the controlling agreement on July 1, 1980, Switchmen were instructed and/or authorized to couple air hose and make brake test on forty-five (45) cars located in Track #6, Leewood Yards, Memphis, Tennessee where there are Carmen employed and on duty, and
2. That the Louisville and Nashville Railroad Company be ordered to desist said violations and compensate Carman L. A. Crestman, who is employed at Leewood Yards, Memphis, Tennessee two hours and forty minutes (2'40") at the time and one-half rate of pay for July 1, 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 employee or employees involved in this dispute are respectively carrier and employees 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.

In the instant Claim, the Organization contends that on July 1, 1980, Carrier improperly assigned Switchmen to couple air hoses and make brake tests on forty-five (45) cars which were located on Track #6, in Carrier's Leewood Yard, Memphis, Tennessee. Organization asserts that said work should have been assigned to Carmen in accordance with Article V (a) of the controlling agreement.

In addition to the fact that the specific work cited by the Organization involved an "interchange cut of cars" rather than a "departing train," as referred to in Article V, and also because Carman C. Howard apparently did perform the final requisite

Form 1
Page 2

Award No. 10399
Docket No. 9871-T
2-L&N-CM-'85

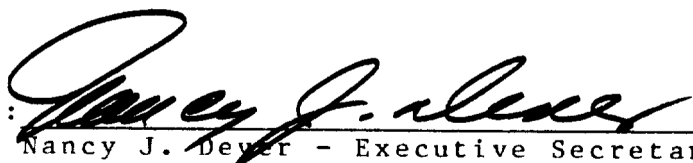
inspection and tests on the completely assembled train before it departed Leewood Yards on July 1, 1980, the Organization, as the moving party, has failed to prove that the disputed work is work which is exclusively reserved for employees in the Carmen classification. Lacking such proof, the Board is compelled to sustain Carrier's position; and the Claim, therefore, will 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 22nd day of May, 1985.