

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

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(Burlington Northern Railroad Company

Dispute: Claim of Employees:

1. That the Burlington Northern, Inc. violated the provisions of the current controlling Agreement when it improperly assigned other than Carmen to perform Carmen's duties, that of repairing freight cars, on February 25, 1981, at Springfield, Missouri.

2. That accordingly, the Burlington Northern, Inc. be ordered to compensate Carman L. G. Stokes four (4) hours at the carman welder's pro rata rate.

3. That this violation not be repeated.

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.

On February 25, 1981, Laborer E. Hamp, an employee in the Fireman and Oilers craft at Carrier's Springfield, Missouri car repair facility, was assigned to operate a fork-lift as a part of his normal duties. At approximately 10:40 A.M. on said date, while in the course of his duties, Laborer Hamp used his fork lift to pick up a coupler body; he transported it to the "B" end of rail car SL-SF 104704; and positioned it so that it could be installed into said rail car by employees of the Carmen's craft. Subsequent to this incident, a claim was filed which contended that the work which was performed by Laborer Hamp was work which contractually and historically had been assigned to and performed by employees of the Carmen's craft; and, in remedy of the alleged violation, it was requested that Carrier compensate Carman L. G. Stokes for four (4) hours at the Carman Welder's pro rata rate.

Without protracting the disposition of this dispute unnecessarily, suffice it to say there are several reasons which convince the Board that Organization's position herein cannot be sustained. The more significant of these reasons are as follows:

First, and perhaps most significantly, Organization has failed to establish that employees of the Carman craft possess the exclusive right to perform the disputed work (Second Division Award 8966).

Second, Organization has failed to show that there is a system-wide practice of assigning such work exclusively to employees of the Carmans' craft (Second Division Award 8831).

Third, Organization has further failed to overcome the persuasiveness of Carrier's argument, which has been supported by documented evidence and which has not been rebutted by Organization, that the disputed work has regularly been performed by other than Carmen at Carrier's Springfield, Missouri facility.

Fourth, while Organization's proffered job bulletins for the positions of Lead Carman-Supplyman and Carman-Supplyman clearly indicate that part of the requisite duties of said position entail the "supplying of material" to carmen, there is no indication in said documents (or anywhere else in the record) that such work was to be performed exclusively by employees of the Carmen's craft or that such work could not be performed by employees of some other craft (Second Division Awards 4965, 8831 and 9062; Third Division Awards 7031, 12795 and 19841).

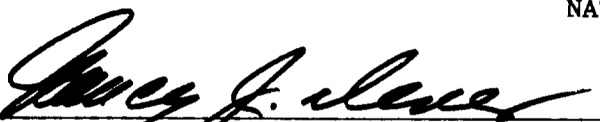
Fifth, and finally, Organization's characterization of the disputed work which was performed by Laborer Hamp on the morning of February 25, 1981 is variously referred to by Organization either in its Statement of Claim or elsewhere throughout its Submission as "repairing freight cars," "assisting carmen in the performance of their duties," "supplying and assisting carmen in the performance of their duties," and "installing a coupler body in the 'B' end of rail car SL-SF 104704." Over and above the fact that the proven extent of Laborer Hamp's activities on the day in question could hardly be considered as "repairing" or "installing," Organization's lack of consistency in presenting its facts and/or arguments in this dispute can only be viewed as being detrimental to its overall presentation. This determination, when considered in combination with those which have been adduced hereinabove, convince the Board the Organization's basic contention in this dispute cannot be supported.

AWARD

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 January 1986.