

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

(Brotherhood Railway Carmen of United States
(and Canada

Parties to Dispute: (

(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 25 and 102 of the Controlling Agreement when they allowed outside car inspector to inspect and bad order cars at the ramp tracks in Dupo, Illinois.

2. That the Missouri Pacific Railroad Company be ordered to compensate Carman David Bean, Sr. in the amount of eight (8) hours per day for five days a week, Monday through Friday, starting August 29, 1983 and continuing until the violation is corrected.

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.

The Organization contends that the work involved belongs exclusively to Carmen on the property, regularly assigned at the Dupo facility under the provisions of Rule 125, Assignment of Work, and Rule 102, Classification of Work.

The basic facts are undisputed. The flat car equipment is owned by Trailer Train Corporation hereinafter referred to as "TTX". Flat cars spotted at Dupo consist of 60% to 95% TTX equipment on any given day.

When said equipment is on Carrier's property, Carrier pays car hire to the owner for the use of the car. When cars are determined to have defects, the cars are either returned to the home shop or TTX authorizes Carrier to make repairs and submit billing for reimbursement. The ramping and deramping operations at Dupo ceased on November 15, 1983, when the ramp was closed down.

Carrier contends that a TTX Representative, acting as the Agent of the owner of the equipment, had the right to examine equipment which his Company owned and had the right to ask Carrier not to load said equipment until certain repairs had been made at his Company's direction and expense.

Carrier also contends that no Rule reserves to Carmen the exclusive right to call to Carrier's attention defects in cars. Federal inspectors, station personnel, officials and shippers have inspected cars as to suitability for loading.

Carrier argues further that all recommended repair work was performed by Carmen.

Under the relevant Rules, it is the Board's opinion that it would be the Carmen's job to determine which car needed repairs by making an inspection and detailing what repairs were necessary. Therefore the Carrier violated the applicable Rules and Agreement when it permitted an employe of an outside company to inspect and bad order cars.

The Claim is for monetary damages. This Award is confined only to the time when the disputed work was actually performed and not 8 hours daily since August 29, 1983. Since the Organization did not provide proof of the number of hours worked, the Parties should mutually review the applicable records concerning the time worked and pay Claimant accordingly.

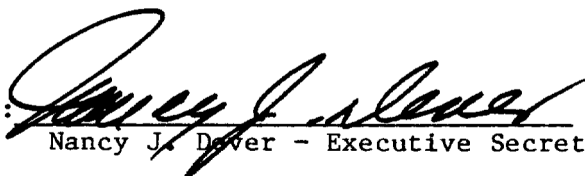
A W A R D

Part 1 of the Claim is sustained.

Part 2 of the Claim is sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 10th day of September 1986.