

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

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

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rules 102 and 25 (a) of the controlling agreement when they used truck drivers in the St. Louis Terminal to perform Carmen's work in applying bridge plates to Cars TTX 252155 and TTX 255829 on April 28, 1983 at the piggy back ramp.

2. That the Missouri Pacific Railroad Company be ordered to compensate Carman V. E. Schroeder one (1) hour pay at the pro-rata rate and use Carman to do the Carmen's work at the piggy back ramp in the St. Louis Terminal.

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 merits of the instant case have been considered at length in Second Division Award No. 11079. Only the dates and cars involved differ while the issues, rules and parties to the dispute are identical. In that case, as in this, the Organization has failed to present sufficient substantial evidence of probative value to establish that applying bridge plates was exclusively Carman's work under the Agreement Rules cited. Having found that the issue has been previously considered and denied, the Board denies the Claim based on the doctrine of stare decisis (see Second Division Award 10634).

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois this 3rd day of December 1986.