

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen of the United States
(and Canada
(
(Louisville and Nashville Railroad Company

STATEMENT OF CLAIM:

1. That the Seaboard System Railroad Company, hereinafter referred to as the Carrier, violated the controlling Agreement, particularly Rules 106 and 142, when a machinist was assigned to fill the vacancy of a Carman Helper on July 25, 1984, at South Louisville Shops, Louisville, Kentucky.

2. And accordingly, the Carrier should be ordered to compensate Carman S. A. Hack, hereinafter referred to as the Claimant, for eight (8) hours at the rate of time and one-half pay as the result of said violation.

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 were given due notice of hearing thereon.

As Third Party in Interest, the International Association of Machinists and Aerospace Workers was advised of the pendency of this dispute and filed a Submission with the Division.

On July 25, 1984, a vacancy occurred in the Pettibone Crane operator's position, which normally is filled by the Machinist craft. A Machinist was called from the overtime board, but upon his arrival, Carrier discovered that he was not qualified to operate a Pettibone Crane. Carrier then assigned this Machinist to operate a forklift, normally assigned to a Carman helper; on the date in question, however, the Carman helper was on a leave of absence, so a member of the "frozen" equipment operators group was operating the forklift, who then was assigned to operate the Pettibone Crane. The Organization thereafter filed a claim on Claimant's behalf, asserting that Carrier improperly assigned a Machinist to fill the Carman helper's vacancy.

This Board has reviewed the evidence in this case, and we find that a jurisdictional dispute exists between the two organizations. The parties to this dispute are signatories to a Letter of Understanding dated in 1943 and made a part of the controlling Agreement. That Agreement requires that signatory Organizations settle disputes over the right to perform work before any claims are submitted to the Carrier. This Board has previously upheld the control of Appendix A in jurisdictional disputes. (See Second Division Awards 6825 and 10182.)

Based on our previous holdings and the nature of this dispute, this Board will dismiss this claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dyer - Executive Secretary

Dated at Chicago, Illinois, this 6th day of April 1988.