

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Brotherhood Railway Carmen/Division of TCU
PARTIES TO DISPUTE: (
(Duluth, Missabe and Iron Range Railway Company

STATEMENT OF CLAIM:

1. That the Duluth, Missabe and Iron Range Railway Company violated the terms of our current Agreement, particularly Rules 6 and 24, when they arbitrarily assigned Missabe Division carmen to perform routine repair work at Two Harbors which is part of the Iron Range Division.

2. That accordingly, the Duluth, Missabe and Iron Range Railway Company be ordered to compensate Carman W. R. Willow in the amount of eight (8) hours pay at the time and one-half (1.5) rate for February 6, 1987.

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 6, 1987, a pellet car derailed in Carrier's Two Harbors Yard. Two Carmen, with regular assigned hours from 8:00 AM to 4:00 PM, were dispatched at 7:00 AM, as a wrecking crew, from Proctor to the site of the derailment. At about 10:30 AM the track was cleared. Both Carmen remained on duty at Two Harbors, working on other ordinary car repairs, until about 2:00 PM when they left to return to Proctor. They arrived at about 3:00 PM and went off duty. For this service they were paid their regular wages plus one hour overtime covering the travel time occurring before their regular starting times. They were also allowed a 60¢ per hour wage differential for the entire period of time that they were away from the Proctor Yard.

On the date of the derailment, Claimant a Carman at Two Harbors, filed a time slip seeking 8 hours overtime pay, contending that Rule 24 was violated. This time slip was rejected on the basis that:

"... no provisions in the Agreement that prohibits Missabe Division Carmen from working on a temporary basis at Two Harbors."

When appeal was taken to Carrier's Superintendent, Rule 6 (b) was also cited.

Rule 6 (b) reads:

"Record will be kept of overtime worked and made available to the committee of the craft involved. Local officers and local committees will cooperate with a view of distributing overtime equally so far as it is possible, subject to the ability of employees to perform, successfully, the work on which the overtime is required. Unless otherwise agreed to between the local officers and the local committee of the craft involved, each employee will only participate in overtime worked in the particular shop, yard, or roundhouse to which assigned."

Rule 24 B provides:

"The following seniority provisions will apply to the Carmen's craft:

1. Effective March 21, 1969, any carman helper or apprentice hired subsequent to said date shall be granted seniority on a common roster and shall perform work on the system.

The present carmen, carmen helper and apprentice seniority rosters shall be maintained and employees holding seniority on only one roster as of March 21, 1969 will not be forced to accept a permanent assignment on the other division. Employees holding dual seniority as of March 21, 1969 must make a determination as provided for under present rules as to returning to their original district.

Employees having seniority prior to March 21, 1969 may be used to perform temporary, or emergency work, including road and wrecking work on the system, and employees will, if entitled thereto, be granted expenses as provided for in Rule 3 during such service.

When an employee having Division seniority in a particular class as of March 21, 1969 cannot hold a position on his Division, such employee shall have the right within five calendar days of his furlough to displace any junior employee holding common seniority who is working on the other Division. If the furloughed employee fails to comply with the foregoing, the employee will not be able to displace a junior employee holding common seniority until he returns to service and is again furloughed on his Division.

This agreement supersedes all rules, agreements, memoranda and understandings in conflict therewith.

(Local Agreement 3-21-69)

Employees represented by the Brotherhood of Railway Carmen who are assigned at Keenan and/or Iron Junction may perform car inspection, repair and servicing at any point north of and including Skibo on the Iron Range Division. Employees represented by the Brotherhood of Railway Carmen who are assigned at Proctor and/or Missabe Junction may perform car inspection, repair and servicing at any point south of and including Lester Park on the Iron Range Division."

In our opinion the Organization has failed to make a case that Rule 6 (b) supports its Claim. From the facts before us, there is no showing that the two individuals used in the rerailing operation, Carmen who were regularly designated members of a wrecking crew, worked any overtime other than the hour before their scheduled starting times, which was spent traveling to the site of the derailment. It is clear that that portion of Rule 6 relied on by the Organization reading:

"... each employee will only participate in overtime worked in the particular shop, yard or roundhouse to which assigned..."

was not violated.

It is also our opinion that Rule 24 B does not support the Organization's Claim. The language of Rule 24 B does not fence in the work of the two Divisions of the Carrier so as to preserve to employees of one Division work on that Division to the exclusion of employees from the other. Instead, what the Rule accomplishes, in our opinion, is the removal of barriers between Carrier's two Divisions.

We cannot find any language in Rule 24 B which supports a contention that the rights of an employee on one Division are breached when an employee from another Division works at his location. In our judgment, the Rule is just not structured in this direction. Instead, it protects certain senior employees from being force assigned to a different Division on a permanent basis.

It is manifest that Rule 24 B replaced former separate Division seniority arrangements with System seniority. Any individual hired into the Craft of Carmen after March 21, 1969, was placed on a common roster and could perform work on the entire System. Those employees having seniority prior to March 21, 1969, retained rights on the Division to which assigned and could be used on temporary work, or emergency work, elsewhere on the System, but were protected against force assignment, on a permanent basis, off of their original Division.

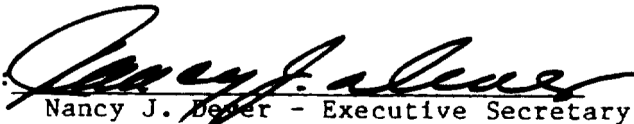
Accordingly, we do not find the Organization's Claim to be supported by the Rules of the Agreement cited on the property and relied on before this Board. It will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Decker - Executive Secretary

Dated at Chicago, Illinois, this 1st day of March 1989.