

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

PARTIES TO DISPUTE: ((Brotherhood Railway Carmen/Division of TCU
(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

1. Carman J. Weatherill was deprived of work and wages to which he was entitled when the Chicago and North Western Transportation Company violated the controlling agreement when they allowed Foreman W. Portz to perform Carmen's work of assisting in the straightening of bent dead lever and bracket on freight car 753549 on January 23, 1987, at the Council Bluffs, Iowa Repair Track.

2. That the Chicago and North Western Transportation Company be ordered to compensate Carman J. Weatherill in the amount of four (4) hours pay at the straight time rate of pay.

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.

As Third Party in Interest, the American Railway and Airway Supervisors Association was advised of the pendency of this dispute but chose not to file a Submission with the Division.

On the Claim date Carmen Radloff was working beneath CNW 753549 straightening a bent dead lever and bracket. He was heating the defective devices with a torch. A 100 ton air jack had been positioned so that by manipulation pressure could be applied to aid in the straightening procedure. A Car Foreman was beneath the car at the time. The Organization claims that the Car Foreman was assisting the Carman in the task. Carrier claims that he was not assisting but merely instructing the Carman doing the work in proper procedures in operating the jack for straightening the bent devices.


On the totality of the evidence in the record we are persuaded that the Organization has established that the Car Foreman was actually assisting the Carmen in the task and was not merely instructing him in how to do the job. Accordingly, the Claim will be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deter - Executive Secretary

Dated at Chicago, Illinois, this 11th day of October 1989.