

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
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

1. That the Burlington Northern Railroad violated the terms of the controlling agreement, specifically Rules 27(a), 83 and 98(c), when they assigned Carmens' class of work to members of the Brotherhood of Maintenance of Way Employees.

2. That, accordingly, the Burlington Northern Railroad be ordered to compensate Pacific Seniority District Carmen L. Bakken and F. A. Dickerson seven (7) hours at the punitive rate of time and one-half, G. C. Burge and S. Treperinas for fifteen (15) hours at the punitive rate of time and one-half. G. Lund and H. Cornelius, J. Bethards, E. Spencer, W. Stubbins, F. Boudreaux for sixteen (16) hours at the punitive rate of time and one-half, and R. Samson for eight (8) hours at the punitive rate of time and one-half.

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 Brotherhood of Maintenance of Way Employes were advised of the pendency of this dispute, but chose not to file a Submission with the Division.

Between May 19 and May 23, 1986 Carrier used Maintenance of Way Bridge and Building forces to effect repairs on two Univan outfit cars that it was placing back in service. The cars had been vandalized during winter storage. Maintenance of Way forces worked 71 hours repairing damaged doors, windows and plumbing in the cars.

The Carmen's Organization claims that such work is reserved to its craft by its Agreement.

In the circumstances of this case we are inclined to agree with the Carmen's Organization that its Agreement covers repair work on the two Univan outfit cars. Carrier's main reason for using Maintenance Forces, it seems, was that it wanted to accomplish the repairs quickly because the units were needed to be put in service immediately as track gangs had commenced service the first of May without shower cars. However, insufficient evidence is submitted to demonstrate that an emergency existed so as to excuse assigning the work to Carmen.

Carrier also contends that Carmen do not have exclusive license to such work, pointing out that Sheet Metal Workers have been assigned plumbing work on Amtrak cars, for instance, which has been acquiesced in by Carmen. This may be correct, but we are not faced with a situation of a pipefitter, working under the Sheet Metal Workers Agreement performing plumbing work on an Amtrak car. We are faced with Maintenance of Way forces repairing Camp Cars.

The Sheet Metal Workers Agreement may well be considered by some as affording entitlement to make plumbing repairs on Amtrak cars but this is considerably different from Maintenance of Way forces repairing Camp Cars. We have not been shown a single provision in the Maintenance of Way Agreement which may reasonably be read to establish even a remote entitlement to Camp Car repair work. The fact that Maintenance of Way forces would be using the units for showering after they were placed in service is insufficient basis to overcome language in the Carmen's Agreement generally placing the work of repairing the units in the Carmen's Craft.

Of the several Awards cited to us in this Docket only two deal with road forces performing work claimed to be Carmen's work. One, Second Division Award 4217 sustained the Carmen's Claim contending that its Agreement was violated when Road Electrical Forces undertook Camp Car repairs on equipment they were using. The other, Second Division Award 11642 denied the Carmen's Claim when Maintenance of Way Employees, assigned in Carrier's ribbon rail plant, changed and welded rollers and roller shafts on cars used in laying ribbon rail. In the denial Award there is evidence that ribbon rail plant employees (Maintenance of Way) historically shared in the work.

In this case we do not have evidence that Maintenance of Way forces shared in the work of repairing Camp Cars. The Claim will be sustained, but at straight time rates.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 7th day of March 1990.