

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11956
Docket No. 11765
90-2-89-2-76

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
(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

1. That the St. Louis Southwestern Railway Company violated the controlling agreement, particularly Rules 7, 20 and Addendum No. 7, when they arbitrarily permitted carmen from another railroad (Southern Pacific) to perform wrecker work at Longstreet, Louisiana beginning on October 3, 1987 through October 6, 1987, instead of using their own carmen from Shreveport, Louisiana, who, by agreement, are entitled to perform this work.

2. That accordingly, the St. Louis Southwestern Railway Company be ordered to compensate the following carmen at the straight time rate for the number of hours listed next to their names: E. A. Evans, 72 1/4 hours; C. A. Gilcrease, 6 1/4 hours; Bob Spencer, 66 hours; W. Fuller, 66 hours; J. W. Gilcrease, 66 hours; R. V. Barteet, 66 hours.

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 April 19, 1966, The Southern Pacific Company - Texas and Louisiana Lines with the St. Louis Southwestern Railway Company entered into a Washington Agreement, Implementing Agreement, with System Federation No. 45 and System Federation No. 162, which provided that effective April 20, 1966, on-line Mechanical and Car Department repair work from Shreveport, Louisiana, to and including Joaquin, Texas, would be performed by Mechanical Department forces of the SLSW Railway Company.

On October 3, 1987, a derailment occurred at Longstreet, Louisiana. Longstreet is on the line between Shreveport and Joaquin. Southern Pacific Carmen were dispatched to the site to work on the derailment and were used to relocate equipment and cargo. SLSW Carmen filed Claim contending that they were entitled to the work.

Carrier has defended against the Claim on a variety of grounds. It argues that an emergency was present and that under the terms of the April 19, 1966 Agreement, on-line repair work was not intended to cover wrecking service. It further argued that the Southern Pacific Carmen used had preference to the work.

We do not find Carrier's defenses persuasive. If it was intended to have SLSW Carmen protect only a part of the work which may develop on the line between Shreveport and Joaquin then such intent must be clearly expressed in the language of the Agreement. As we read the Agreement, on-line repair work also encompasses on-line repair work connected with derailments. The Agreement was violated when Carmen, working under a different Agreement were used on the October 3, 1987, derailment.

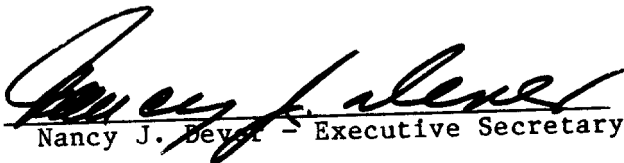
The Claim will be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bevel - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.