

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12473
Docket No. 12047
92-2-90-2-158

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division of TCU
(CSX Transportation, Inc. (formerly the Seaboard
Coastline Railroad)

STATEMENT OF CLAIM:

L. That the CSX Transportation, Inc. violated the controlling agreement, in particular Rules 15, 26, 100 and 102, when they assigned a carman and a carman helper in preparation for painting and sandblasting cars instead of painter helpers.

2. That accordingly, the CSX-T, Inc. be ordered to pay Painter Helpers J. L. Herrin, and W. M. Denson eight (8) hours per day, forty (40) hours per week from September 18, 1987 and continuing until they are restored to their rightful positions or until the carman and carman helper are removed from performing the painter helpers' work. On December 6, 1987, J. L. Herrin was recalled to work. There was an amended claim for T. M. Lott that started December 7, 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 November 6, 1987, Carrier assigned work connected with sandblasting and paint preparation of the interior of a series of box cars to a Carman and a Carman Helper at its Waycross, Georgia Shop. The Organization contends that this work was required to be assigned to a Painter Helper at that facility. The Organization points out that this specific issue is not new to this Board, and emphasizes that a Claim similar in all respects had been decided in Second Division Award 11360. It asks that Award 11360 be followed and that the instant Claim be sustained.

Carrier acknowledges that Award 11360 is an on-property decision that covers a similar subject at the same location, but insists that there are significant differences between the facts involved in that Award and the facts in the instance case. It maintains that these differences dictate that a denial Award be issued.

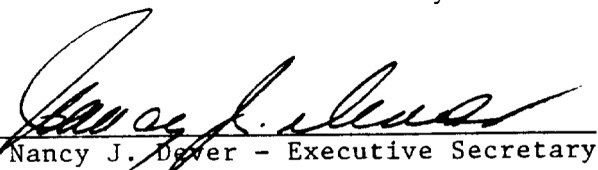
This Board does not find Award 11360 to be in palpable error. Additionally, the Board is not persuaded that the facts involved in this case reviewed there are sufficiently dissimilar to the facts in this case so as to suggest a difference result. Awards involving basically the same fact situation, arising on the same Carrier at the same location had ought to be followed unless it is demonstrated by persuasive evidence that the earlier decision is in error. This has not been done here. 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. Dever - Executive Secretary

Dated at Chicago, Illinois, this 4th day of November 1992.