

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12534
Docket No. 12425
9-2-91-2-229

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

(Brotherhood Railway Carmen Division
(Transportation Communications
(International Union
PARTIES TO DISPUTE: (
(Chicago and North Western
(Transportation Company

STATEMENT OF CLAIM:

- "1. The Carrier violated the controlling agreement, specifically Rules 13, 14, 15, 16, 21, 77 and Appendix "G", when Carrier, through an informational bulletin dated October 20, 1989, established position nos. 670, 671 and 672 designated as mechanic-in-charge positions at Proviso Yard Global 2.
2. That the three (3) mechanic-in-charge positions be abolished and re-established as carmen positions and be awarded to the three (3) senior qualified men bidding these positions: M. A. Winters, R. Kress and T. Holt.
3. That Carmen M. A. Winters, R. Kress and T. Holt be compensated at the rate of time and one-half from November 1, 1989 through the date they are awarded these Carmen positions.
4. That the Carrier operate Global 2 as a part and the same point as Proviso Yard."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Although the handling on the property was rather extensive, as it pertains to the dispute when presented to this Board, we note the following.

The Carrier established the Global 2 Yard for the purpose of intermodal transportation. The Carrier designated three Mechanics-In-Charge and the Claimants assert that they should have been assigned to the positions.

The Organization asserts that the 140 Carmen at Proviso Yard were ignored even though there is only one seniority roster at that Yard and it denies that Global 2 is a "separate point." Carrier insists that Global 2 is a "...separate and distinct facility...", established with a separate SPLC number, operating station number and freight station accounting code. As such, it does "...not fall under the jurisdiction of the Proviso seniority roster."

Moreover, Carrier asserted that applications were solicited from numerous locations, not merely Proviso, and appointments were made based upon qualification since the MIC positions are not subject to bid.

The Organization denied the assertion that Global 2 is a separate facility because:

"Global Two was an expansion of existing facilities at Proviso on land occupied by the existing piggyback plaza and Yard One.

Global Two is in the middle of the outbound yard in Proviso, built on a existing facility and therefore a part of Proviso..."

In response to the above cited position, the Carrier responded:

"Global II has been established as a separate and distinct point to handle a separate and distinct function from the Carrier's Proviso facility. While the Global II facility may be located within the area commonly known as Proviso, it is treated as a separate functional point with its own distinct mission--intermodal stack train loading/unloading. Personnel assigned to this area are assigned only to Global II and not to the Proviso facility at large. The Global II facility was built from the ground up as a separate and distinct facility with a separate and distinct function..." (Emphasis supplied)

To emphasize its position, Carrier also advised that the Global II MICs do not "...leave or perform work outside of the Global II area. They clearly are not assigned to the Proviso facility."

The Claimants replied that:

"The current Intermodal facilities existing on the Chicago and Northwestern are: Janesville, Wisconsin, Belvedere, Illinois, and Global I at Wood Street. All of these facilities are separate points and the whole point was declared intermodal. Only at Proviso is the Carrier attempting to establish a point within a point..." (Emphasis supplied)

In its submission to this Board, the Organization continued to contend that the Carrier should be required to rebulletin the MIC positions and assign same to Carmen since there are more than 5 mechanics at Proviso and Global II is not a separate point and there is only one seniority roster at Proviso. It relies upon various contractual provisions and Appendix "G".

In its Submission, Carrier attempts to expand somewhat upon the factual assertions cited above, but basically reiterates its stated contentions. In addition it cites a number of Awards.

Our review of pertinent Awards (between these parties) suggests to us that the Global concept is neither new nor is it novel to these parties. For instance, in Second Division Award 10869, concerning Global I, this division, citing Award 83 of PLB 2512 noted:

"...there can be no dispute that the position of MIC is an appointive one, without necessity of following strict seniority."

Second Division Award 9976 noted:

"[MICs] so appointed do not establish separate seniority as Mechanics-In-Charge, but retain and continue to accumulate seniority in their craft at home point."

Based upon the Organization's concession that there are certain legitimate Global facilities, the above cited Awards may not be basic matters of dispute. But here, we view the Organization's operable premise to be that the "facility" in question is not, in fact, a true Global facility because it is not separate and distinct from Proviso Yard. In reality it is a "point within a point."

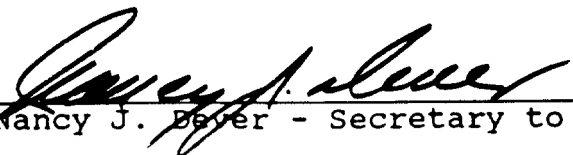
We have struggled with the contentions of the parties to this dispute. In the final analysis we are unable to agree that the mere geography of the location can control. Certainly, an initial showing of closeness of proximity may raise certain inferences, but we feel that the record as a whole fails to confirm that inference. We find that the Organization has not rebutted the Carrier's rather strong showing that the Global II facility is a separate operation, performing a separate function from that of Proviso Yard. It might even be totally surrounded by Proviso Yard, but that isolated fact is not controlling.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 12th day of May 1993.