

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12587
Docket No. 12484
93-2-91-2-298

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(
(Norfolk Southern Railway Company (formerly
(Southern Railway Company)

STATEMENT OF CLAIM:

- "1. That the Southern Railroad Company and/or its Corporate Parent, the Norfolk Southern Corporation, violated the terms and conditions of the current Agreement on October 1, 1990, when they called Carman C. Haun as an extra and/or a relief groundman who was on a scheduled vacation and failed to call Carman B. K. Howard who was the next regular assigned Carman available.
2. That accordingly, the Southern Railroad Company and/or its Parent, the Norfolk Southern Corporation, be ordered to compensate Carman B. K. Howard in the amount of thirty-two (32) hours pay at the overtime rate. (The amount of time he would have worked had he been called.)"

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 employe 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.

This is a time claim in which the essential facts are not in dispute. The evidence shows that, on October 1, 1990, there was a

derailment of seven cars about 116 miles from Knoxville, Tennessee, which resulted in the blockage of the mainline. One of the derailed cars contained hazardous material.

About two hours after the derailment, the Carrier dispatched its crew with a derrick to the derailment site. One of the crew members who was called by the Carrier to work on that date was Carman Haun ("Haun") who was on vacation. The Organization asserts that, although Haun had the senior standing, because he was on vacation, he should not have been called and the Claimant, who was ready and available, should have been called to work with the crew at the derailment site.

The Organization has provided no evidence that Rule 134 or Rule 135 which are controlling in this dispute, prohibits a regular wrecking crew member to work while on vacation if he makes himself available. The record shows that the Carrier has had a practice of calling wrecking crew members who have made themselves available for wrecking service while on vacation. Therefore, because Haun was the senior person who on a voluntary basis was available, the agreement has not been breached.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 15th day of September 1993.