

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Form 1

Award No. 12665
Docket No. 12527
94-2-92-2-53

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 TCU
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(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

- "1. That the Norfolk and Western Railway Company violated current Agreement Rule 27 and 112 dated June 1, 1939, as subsequently amended when on January 19, 1991 two (2) employes and the President from Stainless Steel Vacuvator Service, an outside concern, came to St. Louis, Missouri Terminal on Rip Access Track R-S-4, Shop Track, on N&W property and performed a combined total of twenty-four (24) manhours of work in correcting or adjusting the load of lumber on SP 565139 rail car.
2. That because of such violation, the Norfolk and Western Railway Company be ordered to compensate Carmen V. Meyer, H. H. Hayden and W. Cheung for eight (8) hours each at the overtime rate of pay."

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.

On January 19, 1991, Carrier used the services of an outside contractor to adjust a load of lumber on SP 565139. The Organization argues that Carmen should have been used, and makes claim for the amount of time employees of the contractor worked on the project. Carrier maintains that the contractor utilized a

forklift with a 16 foot mast in the adjusting activity, and that it did not have such equipment available at its St. Louis facility.

It is uncontested that special equipment was needed to adjust the lumber load on January 19, 1991. Carrier did not have this special equipment available at the yard where the work was required to be performed before the car involved could be moved. Accordingly, it was not an agreement violation to utilize the services of a contractor to perform the work.

The claim is without merit. It will be denied.

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 16th day of February 1994.