

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12995
Docket No. 12777
96-2-93-2-160

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

(International Brotherhood of Firemen
(and Oilers
PARTIES TO DISPUTE: (
(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM:

- "1. That in violation of the current Agreement, the Elgin, Joliet and Eastern Railway Company improperly denied compensation to Joliet, Illinois Laborers K. Krueger and R. Mather on June 25, 1992 and C. Tarlini on June 26, 1992 and Gary, Indiana Laborers C. Taylor, H. Vaughn on June 25, 1992 and J. Mateen on June 26, 1992, as a result of a nation wide railroad lock out of employees.
2. That, accordingly, the Elgin, Joliet and Eastern Railway Company be ordered to compensate the afore mentioned employees for payment of eight (8) hours each at the pro rata rate on the afore mentioned dates."

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.

This dispute raises a question of the propriety of the Carrier's action in late June of 1992. The Carrier suffered an adverse impact when a different Union struck CSX Transportation, which prompted a defensive lock-out by other Carriers.

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The topic of the Carrier's obligations in late June 1992 have been considered by a number of Referees. This dispute was presented as a companion case with cases which resulted in Awards 12787 and 12788. In addition, Second Division Awards 12750, 12751, Third Division Awards 30954 and 30930, as well as Awards on three Public Law Boards, determined that the Carrier's action resulted from its inability to interchange with other Carriers and therefore it was permissible.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of April 1996.