

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

Award No. 13188  
Docket No. 13056  
97-2-95-2-88

The Second Division consisted of the regular members and in addition Referee Margo R. Newman when award was rendered.

**(Brotherhood Railway Carmen, Division of  
( Transportation Communications International Union**  
**PARTIES TO DISPUTE: (**  
**(Springfield Terminal Railway Company**

**STATEMENT OF CLAIM:**

**“Claim of the Committee of the Union that:**

- 1. Carrier violated Rule 28 of the Maine Central Agreement on March 22, 1994 when Assistant Manager Kenneth Mancone assisted Railroader/Carman Clare Stinson to rerail MS DR 195467 at South Brewer, Maine rather than properly assigning a qualified Carman for work.**
- 2. Carrier shall now compensate Carman Roger Boudreau for six (6) hours pay at the overtime rate of \$19.80.”**

**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 were given due notice of hearing thereon.**

In response to a derailment at South Brewer, Maine, Carrier sent a road truck and Carman to that location to perform rerailling as well as an Assistant Manager to observe and begin learning rerailling procedures. This claim arises from the fact that the Assistant Manager helped the Carman move the rerailler during his observation period.

The Organization argues that the Manager performed Carman's work in violation of Rule 28(a), which provides:

“None but Mechanics or Apprentices regularly employed as such shall do Mechanics' work as per special rules of each craft, except Foremen at points where no Mechanics are employed.”

The Organization notes that Claimant was qualified to assist in the rerailling, and should have been assigned this overtime, citing Second Division Awards 9117, 9147, 12887.

Carrier contends that the Organization failed to sustain its burden of proving that moving a piece of equipment is work which belongs to it exclusively, citing Second Division Awards 11984, 12505, 13108. Further, it argues that any activity performed by the Assistant Manager falls within the parameters of the de minimis principle, relying upon Second Division Awards 12238, 11239, 12476, and that Claimant suffered no loss of earnings. See Second Division Award 12656.

This record is devoid of any facts which support a finding that the Assistant Manager performed any task other than admittedly helping the Carman move the rerailler. There is no evidence that this took other than a brief period of time. Thus, even though the work in issue may well be outside the scope of managerial responsibility, it falls squarely within the de minimis principle and does not justify compensation of Claimant, who suffered no loss of earnings, for the requested six hours of overtime pay.

**AWARD**

**Claim denied.**

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**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 23rd day of December 1997.**