

CORRECTED

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13209
Docket No. 13192
98-2-96-2-98

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 of
(Transportation Communications International Union
(Southern Pacific Transportation Company
((Western Lines)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Southern Pacific Transportation Company (Western Lines) on August 29, 1995, arbitrarily violated Rules 38(b), 33(a), 32 and 104 of the MP&C Department Agreement, when it failed to notify the Organization in writing within sixty (60) days from the date of the claim, of the claim disallowance. Also when they assigned Supervisor Driscoll from Ogden, Utah and Carmen Brenkman from another seniority point to change out one (1) pair of 100 ton wheel on a FLIX2730 at Lemay, UT, mile post 702.
2. That, accordingly, the Southern Pacific Transportation Company be ordered to compensate furloughed Carmen K.A. Hipwell and S.R. Crosbie eight (8) hours each at the pro rata 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 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.

This case involves similar circumstances and Agreement provisions as those addressed in Second Division Award 13208. In this case, a Carrier Supervisor and a Carman from Roper Yard on the Denver & Rio Grande Western ("DRGW") in Salt Lake City were called to change a pair of wheels on a loaded hopper car in Lemay, Utah, 11 stations west of Ogden, Utah. The Organization claims that the two Claimants who were on furlough should have been called for the work.

At the outset, both parties assert time limit violations. The Board finds, under all the circumstances, that this claim is best addressed on its merits.

With respect to the merits, while the dates and location are different, the essential elements of this claim are the same as those addressed in Award 13208. We find here, as we found in that case, that the recall of the two Claimants would not have been practical and we also find no Agreement support for the claim.

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 11th day of February 1998.