

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13265

Docket No. 13112

98-2-96-2-12

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

(Jimmy D. Burnett

PARTIES TO DISPUTE: (

(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

"The closing of the Hayne Shop in Spartanburg, South Carolina has adversely affected me. I have been forced to take a job in Linwood, North Carolina which is over 120 miles away. I did not get to bid on the job's at Linwood. I was able to bid only on shifts and days off. They rearranged forces before July 3, 1995 in anticipation of us accepting jobs at Linwood.

I am not doing the same type work that I was doing at Hayne Shop. They told me that I would be doing door work. Norfolk Southern is sending cars to Contract Shops for work that we could still be doing at Hayne Shop. I do not receive the 25 cents per hour welding rate, because it is not offered as it was at the Hayne Shop."

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.

The significant events leading to this claim arose on April 3, 1995 when the Carrier provided notice that certain mechanical work performed at Hayne Car Shop, Spartanburg, South Carolina, would be transferred to other locations on the Carrier's rail system. The Carrier's notice provided, in part, that any employee adversely affected within the meaning of the New York Dock conditions would be allowed the benefits provided therein. Because the Carrier and the Organization were unable to reach an Implementing Agreement, the disagreement was submitted for arbitration. The arbitration resulted in an Award finding that the Implementing Agreement submitted by the Carrier would be imposed.

Pursuant to the Imposed Implementing Agreement, the Claimant bid on and was awarded a Carman position. In lieu of moving benefits to which the Claimant was entitled under New York Dock, he chose to receive a \$10,000.00 lump sum relocation allowance. Subsequent to his transfer, the Claimant asked to receive the monthly protective allowance provided under New York Dock protective conditions. The Claimant believed that he was entitled to an allowance because he moved in excess of 120 miles and he would be forced to work different shifts.

The Carrier denied the Claimant's request because he had obtained a position through the normal exercise of his seniority and because he was not placed in a worse position.

This Board lacks jurisdiction to resolve disputes arising under the New York Dock conditions, because New York Dock contains its own arbitration provision. This same issue has been addressed and resolved, as here, on many occasions in the past. See, for example, Fourth Division Awards 4293, 4912, 4667, 3353, and 2095.

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 18th day of May 1998.