

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13422
Docket No. 13304
99-2-97-2-77

The Second Division consisted of the regular members and in addition Referee Edward L. Suntrup when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen, Division of
(Transportation Communications International Union
(CSX Transportation, Inc. (former Chesapeake &
(Ohio Railway Company)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Chesapeake and Ohio Railroad Company violated the controlling Shop Crafts' Agreement, specifically rule 32(a) and 154(a), when on June 10, 1996 the Carrier allowed and/or permitted other than Carmen at Clifton Forge, Virginia to perform inspecting and repairing of freight cars inside the Clifton Forge yard limits.
2. Accordingly, the Carrier be instructed to compensate Carmen C. E. Johnston and Ga. A. McCulley ten (10) hours' at carmen's rate and one half for the said violation.”

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.

On July 6, 1996 the Organization filed claim CF005 alleging violation of the Agreement by the Carrier on June 10, 1996 when it allegedly permitted employees other than members of the craft to inspect and repair cars at the Clifton Forge, Virginia, Transportation Yard. On September 6, 1996 the Organization wrote a letter to the Carrier which addresses appeal of a claim designated as a claim for June 11, not June 10, 1996. On September 6, 1996 the Organization continued handling of a claim on the property, which is designated as claim CF006, rather than claim CF005. On October 23, 1996 the Organization continued handling of a claim on the property by correspondence to the Director of Employee Relations which deals, once again, with claim CF005 and alleged a violation, which took place, again, on June 10, 1996. By June 10, 1997 the intermittent handling of what was originally either claim CF005 or CF006 had now become handling of claim(s) CF005 through CF008. The latter numeration of claims remains consistent through September 9, 1997 when the Organization stated that it was prepared to "...adjudicate the dispute(s) before the Second Division of the Adjustment Board...."

A study of the record reveals that the Carrier also responded differentially to claims CF005, CF006 and ultimately to CF005-CF008 when handling the claims on the property and theoretically, at least, should share some responsibility for the mixed claims before the Board in this case. Nevertheless, the Organization as moving party has the burden of proof and the Board cannot reasonably respond to the parties' request for a ruling on intermingled claims. The claim must be dismissed.

AWARD

Claim dismissed.

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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 16th day of June 1999.