

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13441

Docket No. 13274

99-2-97-2-57

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

(Brotherhood Railway Carmen, Division of Transportation
(Communications International Union

PARTIES TO DISPUTE: (

(Alton & Southern Railway Company

STATEMENT OF CLAIM:

“1. That the Alton & Southern Railway company violated the provisions of the agreement and discriminated against the employees of the Car Department when it ordered each employee to take and complete a seven page 68 question test which they were forced to work on while at home on their own time and the Carrier refused to compensate them for their services.

2. That, accordingly, the Carrier be ordered to compensate Carman J. Grimont, L. DeRossett, E. Cave, G. Stephens, L. Wilson, R. Gregonis, D. Smith, M. McCarthy, H. Gardner, G. Grieve, D. Parmeley, R. Davis, J. Todd, J. Brooks, W. Hawkins, J. Lee, J. Franklin, J. Geromiller, R. Evans, D. Fleming, N. Innis, P. Johnson, T. Bass, M. Wisham, P. Winder, S. Evans, P. Coomer, T. Coleman, M. McClendon, R. Christopher, D. Griffin, F. Johnson, R. Messick, P. Hoffman Sr., R. Crandell, R. Snelling, D. Adams, R. Ingram, D. Carr, J. Moore, L. Arnold, R. Miller and A. Goodwin five (5) hours' pay at the applicable straight time rate as provided in Rule 4(c) of the controlling agreement for being forced to take a test while off duty.”

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.

A claim was filed on May 23, 1996 on grounds that the Carrier violated the operant Agreement when it asked members of the craft to take a written test on the contents of a book covering its new operating and safety rules. According to the claim the Claimants named in the Statement of Claim should be paid the requested relief for taking the test “. . . while at home and during their own time” The claim was denied on property by the Mechanical Superintendent and then appealed by the Organization up to and including the highest Carrier officer designated to hear such. Absent settlement of this dispute on property it was docketed before the Second Division for final adjudication.

On or before May 13, 1996 the Carrier passed out a test to each member of the craft working on premises with instructions to return the test one week from the date received. The test was an open book test. It contained 68 questions. By this action, according to the Organization, the Carrier violated Rule 1 and 4(C). In its arguments on property the Organization states the members of the craft were “. . . discriminated against and given an unreasonable task . . .” to perform when asked to do the test. The Organization further argues that:

“It is the position of this Organization that the Carrier’s actions is clearly a case of discrimination against the employees of the Mechanical Department by the method and way in which the Carrier administered the test in question to the Mechanical Department, and refused to pay them for their time, in comparison to the method and way the Carrier administered the test it gave to the Transportation and Maintenance of Way employees. It is our position that all employees of the (Carrier) should be treated equally, and fairly, regardless of what department he or she may work in.”

The Organization notes that the test had been given to the Maintenance of Way employees during their regularly scheduled working hours during several scheduled meetings in an on-premises conference room. The Transportation Department employees had been tested on the new rules over a two week period at a local Holiday Inn.

In response to the claim the Carrier states that it never requested that any of the Carmen take the test home. The purpose of the test was to get all members of the craft to merely read the book. The Carrier observes that each member of the craft has some 30 minutes or so of time at the end of each shift during which they could reasonably have done the test over a period of one week. This is not denied by the Organization in the record before the Board. The Carrier states that the Transportation and Engineering Department employees are required to take and pass a test on the operating and safety rules every two years. Mechanical Department employees are simply required to be familiar with the same rules. This also is not disputed by the Organization. These differences in requirements is, according to the Carrier, why it used different procedures in requiring/requesting that all its employees familiarize themselves with the new rule book.

The issue in this case centers on equity and perceived fairness in the work place. The jurisdiction of the Board does not extent to this domain unless it is explicitly addressed in labor agreements mutually negotiated by parties under Section 6 of the Railway Labor Act. This Board's function, under Section 3 of the Act, is limited to the interpretation of labor agreements ". . . as written . . ." (See First Division Award 21459; Third Division Awards 6695, 21697; Fourth Division Award 4645). The Board is not persuaded, in this case, that the Carrier violated any provision of the Agreement which is cited by the Organization. The Board rules accordingly.

AWARD

Claim denied.

Form 1
Page 4

Award No. 13441
Docket No. 13274
99-2-97-2-57

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 25th day of August 1999.