

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13468
Docket No. 13254
99-2-97-2-20**

The Second Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

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

PARTIES TO DISPUTE: (

**(CSX Transportation, Inc. (former Louisville & Nashville
(Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. That the Louisville and Nashville Railroad Company, (now a part of CSX Transportation and hereinafter referred to as Carrier) violated the controlling Agreement, in particular but not limited to Rules 29, 30, 104, and letter Agreement dated November 11, 1976, rights of Chattanooga, TN (L&N) Carman H. E. Fowler, (hereinafter Claimant) when Carrier instructed and/or allowed Atlanta, GA Seaboard Coast Line Railroad (SCL) Carman J. L. Jackson on January 12, 1997 to perform carman’s work of mechanical inspections on freight car UTLX 25712 on property at McDaniels, GA.**

- 2. Carrier should now be ordered to compensate Claimant for four (4) hours pay each at the overtime rate of pay account of violation of Claimant’s contractual rights to work performed on January 12, 1996 by outsiders to this property.”**

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 January 12, 1996, a train crew discovered that tank car UTLX 25712 on L&N property at McDaniels, Georgia, was leaking its contents into an adjacent creek. The L&N crew found the bottom valve leaking and worked with the valve until they stopped the leak. The CSX Hazardous Materials Response Team (HAZMAT) was called along with several other Carrier personnel. Seaboard Coast Line Railroad Carman J. L. Jackson, who was a few miles from the site, overhead the radio transmission requesting that the Mechanical Department be dispatched as quickly as possible. Carman Jackson responded to the site.

The Organization alleges that the Carrier violated Rules 29, 30, and 104 of the Agreement and the November 11, 1996, Letter Agreement when it allowed SCL Carman Jackson to perform mechanical inspections on the leaking freight car.

In pertinent part the Rules and Letter Agreement allegedly violated read as follows:

“RULE 29 - SENIORITY

. . . 29(b) Seniority of employes in each craft covered by this agreement shall be confined to the point employed for those who perform work as per special rules of each craft . . .

RULE 30 - ASSIGNMENT OF WORK

. . . 30(a) None but mechanics and apprentices regularly employed as such shall do mechanics work as per special rules of each craft . . .

RULE 104 - CLASSIFICATION OF WORK

Carman's work shall consist of . . . inspecting all passenger and freight cars, both wood and steel . . .

Letter Agreement dated November 11, 1976

... If mechanical forces are needed north of Cartersville, L&N forces will be used. If mechanical forces are needed at Cartersville or south thereof, SCL forces may be used."

The Organization asserts that no emergency condition existed because the tank car was loaded with latex, a non-hazardous material. A written statement from Local Chairman J. M. Ridge adds that the difference in response time from Chattanooga, Tennessee, and Cartersville, Georgia, where SCL Carman Jackson is based is about ten minutes more.

The Carrier submits that CSXT policy mandates that any uncontrolled release from a car is an emergency situation requiring immediate response. At the time of the incident, it had not been confirmed that the leak was secure. SCL Carman Jackson inspected the valve and determined it was secure.

There is nothing in the record to indicate that the Carrier employees at the scene of the incident knew the leaking material was non-hazardous. Accordingly, it was reasonable for Carrier to act as promptly as possible to assess the situation.

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 5th day of October 1999.