

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13523

Docket No. 13398

00-2-98-2-86

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (**Brotherhood Railway Carmen Division**
(**Transportation Communications International Union**
(**CSX Transportation, Inc. (former Baltimore and Ohio**
(**Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. The Carrier violated Rule 138 of the Controlling Agreement when it failed to use Carmen to perform an Initial Terminal Test on Outbound Train in Decoursey Yard and assigned a train crew to get their own Initial Terminal Test.
2. The Carrier be ordered to compensate K. Maggard ID#518933 two hours forty minutes at the time and one-half rate of Carman pay for this 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.

The claim contends the Carrier violated Classification of Work Rule 138 by its failure to have a Carman perform the initial terminal air brake test on a train departing from Decoursey Yard, Kentucky, and permitting the train crew to do the work.

The established criteria requiring use of a Carman for this work are as follows:

1. Carmen in the employment of the Carrier are present and on duty;
2. The train tested, inspected and coupled is in a departure yard or terminal;
3. The train involved departs the departure yard or terminal.

The Carrier states without contradiction that no Carman was on duty at Decoursey Yard. The Organization, however, notes the availability of Carmen at Cincinnati, Ohio, whose job bulletins refer to work at "outlining points including Decoursey." The bulletins, however, state the location of assignment to be at Cincinnati.

The Carrier argues that while Decoursey and Cincinnati are points in the consolidated Queensgate Terminal "for the purposes of switching cars and making up trains, the yards are operated as separate entities."

This identical issue has been reviewed previously by the Board. Ivorydale is another yard within the consolidated terminal, where a similar claim was initiated. Second Division Award 10515 concluded as follows:

"This Board finds that since there were no Carmen assigned at the Ivorydale Yard on the date in question, and since the work of making air tests is not exclusive work of the Carmen craft, the Organization has not met its burden of proof by a presentation of probative and substantive evidence demonstrating that the rights of the Carmen were violated. Hence, the claim must be denied."

Second Division Award 10518 involving Stevens Yard within the consolidated terminal reached the same conclusion.

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The Board finds no basis to differ from the Board's conclusions in Awards 10515 and 10518.

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 27th day of July, 2000.