

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13552

Docket No. 13449

00-2-99-2-52

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

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

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. That the Carrier did violate Rule 142 and 142 ½ of the Agreement when they failed to call Carmen for a yard derailment and employed an outside contractor with its ground forces to perform Carmen work within the yard limits.**
- 2. That the Carrier be ordered to pay Claimants: N. Abplanalp, J. Allen, B. Twaddell and A. Steele four (4) hours time and one-half Carmen rate of pay for this willful 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 June 18, 1998, one car derailed on the Queensgate East Open South track. The Carrier called out R. J. Corman Wrecking Service whose personnel rerailed the car.

The derailment was within yard limits. Rule 142, which is alleged to have been violated, reads in pertinent part:

“ . . . For wrecks or derailments within yard limits sufficient carmen will be called to perform the work. . . .”

Because four of the contractor’s employees allegedly worked as groundsmen, the Organization contends four Carmen should have been called.

This issue has been before the Board on other occasions. Second Division Award 13528, which was adopted in July of this year, involved the identical arguments and the same parties. Therein the Board quoted from Second Division Awards 8361 and 13424, both involving the same parties and the same arguments as here.

As stated in Award 8361:

“On the record before it, this Board states that it frankly does not have sufficiently persuasive and credible evidence to allow it to judge whether or not a significant volume (more than de minimus) of ground work was performed by the Hulcher crew which could and should have been performed by the Carrier carmen under Rule No. 142.”

The record is barren in this case as to what work of the craft the contractor’s forces may have performed that could be considered work exclusive to the craft.

As did the Board in Second Division Awards 8361, 13424 and 13528, we find insufficient information that would lead to a conclusion that the Carrier violated Rule 142. Accordingly, the claim must be denied.

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 29th day of September, 2000.