Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 14007
Docket No. 13885
09-2-NRAB-00002-080037

The Second Division consisted of the regular members and in addition Referee Joseph M. Fagnani when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen Division - TCU
(
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

"1. That the Springfield Terminal Railway Company violated the terms of our current Agreement, in particular Rule 2, when they arbitrarily allowed or otherwise ordered three (3) Supervisors and a Mechanic to perform Carman duties at Billerica, MA.

2. That, accordingly, the Springfield Terminal Railway Company be required to compensate Carmen Jacob Rosko and Mark Riley in the amount of four and one-half (4.5) hours for these Supervisors and a Mechanic to perform Carman's work. That is the amount they would have earned had the Carrier not violated the Agreement."

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 August 22, 2007, there was a need to move a large fuel tank from its fixed location in Billerica and transport it by rail to East Deerfield to be used in the fuel tank farm at that location. In order to remove this fuel tank from its fixed position, a BMWE-represented Work Equipment Operator detached a pipe and plugged the resultant hole. A Track Department employee used a bucket loader to dig out an embankment and another BMWE-represented Tractor Trailer Driver operated the truck on which the fuel tank was loaded and then unloaded onto a rail car. The Claimants, who were assigned to two mobile cranes, lifted the fuel tank and loaded it onto the truck and then off-loaded the fuel tank from the truck to a rail car. There were two supervisors assigned as part of this work project.

The Organization filed the above claim based on its contention that the Supervisors and a "Mechanic" performed work that accrued to the Carman craft while loading the fuel tank onto the truck and rail car. The Organization based its claim on Rule 2.1 (i) and (q) of the Agreement, which identifies the following tasks as Carman work:

> "(i) Inspect, measure, and secure lading to conform with A.A.R. Regulations
>
> * * *
>
> (q) Other work generally recognized as Carman's work."

Specifically, the claim stated that the "supervisors hauled blocking, hooked cables and set the fuel tank on this flat car. They measured the tank car for dimensional loading." Because the Organization did not specify what work the other craft employees performed that was reserved to Carmen, the Board will not consider such matter in the resolution of the dispute.

The Carrier has taken the position that it was not required to assign additional Carmen to work with the mobile cranes inasmuch as this work did not involve wreck service and there was no contractual requirement to employ additional Carmen. The Carrier also stated that the work performed by the Supervisors was "customary supervision and assistance associated with their managerial responsibilities."

Initially, the Board agrees with the Carrier that the work task involved herein was not wreck service; however, the Organization has not alleged a wreck service consist violation. Rather, it claimed that Supervisors performed craft specific work as outlined above. While the Carrier states that the Supervisors performed their normal managerial function, it never seriously refuted the specific items of work that the Organization claimed that the Supervisors performed in connection with removing the fuel tank and loading it onto a rail car. The Board recognizes that Supervisors have a managerial responsibility to insure that work is properly performed and that in fulfilling this responsibility, they may sometimes properly perform some minimal hands-on tasks. However, the Board finds that in this case, the supervisory employees went well beyond their normal managerial function and performed work that should have rightfully been performed by the two Claimants. While the Claimants were on duty at the time, the Board finds the Organization's argument persuasive that they would have worked additional time absent this infringement on their work. Accordingly, the claim is sustained.

AWARD

Claim sustained.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 8th day of May 2009.