

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 14016
Docket No. 13898
10-2-NRAB-00002-090011**

The Second Division consisted of the regular members and in addition Referee William R. Miller when award was rendered.

PARTIES TO DISPUTE: (
(Brotherhood Railway Carmen Division of TCIU
(Springfield Terminal Railway Company

STATEMENT OF CLAIM:

“Claim of the Employees’:

- 1. That the Springfield Terminal Railway Company violated the terms of our current Agreement, in particular Rules 2.1(a) and (i), when they did not call in Carman Richard Sibley to work on January 19, 2008.**
- 2. That, accordingly, the Springfield Terminal Railway Company be required to compensate Carman Richard Sibley in the amount of eight (8) hours at the overtime rate of pay. This is the amount he 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.

It is the Organization's position that the Carrier required Assistant Superintendent J. Rae to drive to Mohawk Yard, East Deerfield, Maine, to inspect a pipe train. The Assistant Superintendent left at 11:00 P.M. on January 19 and returned at 7:00 A.M., on January 20. According to the Organization, the inspection performed by Rae was covered work protected by Rule 2.1 (a) and (i). Because he performed that work, it requested that the claim be sustained as presented.

It is the position of the Carrier that it did not violate the Agreement. It argued that the Assistant Superintendent did not perform any mechanical inspection on the train or its lading and, therefore, there was no contractual violation. It asserts that the location in question is used as an interchange point between CSXT and itself and the pipe train in question was under the possession and control of CSXT during the time Rae was at that location. It further argued that any work performed on the train at that point was done by CSXT employees and the only thing the Assistant Superintendent did was oversee the movement of trains from a foreign Carrier, which was not a violation of the Agreement.

The Board reviewed the record and discovered that the parties are in agreement that the inspection of trains, such as the pipe train in this instance, is covered work belonging to BRC-represented employees. The disagreement in this case concerns whether an actual inspection was performed. The Organization asserts that it was and the Carrier asserts that it was not. The burden of proof in this case was with the Organization, which offered no proof that the Assistant Superintendent performed a mechanical inspection. Absent any proof, the Board finds and holds that there was no violation of the Agreement and the claim must be denied.

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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 14th day of January 2010.