



Award No. 5536

Docket No. 5395

2-LV-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 96, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the controlling agreement when it improperly assigned trainmen on November 14, 1965 to perform the work of carmen in making air brake test, inspection and the related coupling of air hoses incidental to such inspection and air brake test.

2. That accordingly the carrier be ordered to compensate Carman Earl Hartman eight (8) hours at the punitive rate of pay for November 14, 1965, on account this violation.

EMPLOYEES' STATEMENT OF FACTS: Carman Earl Hartman, hereinafter referred to as the claimant, is regularly assigned to position on the 7:00 A. M. to 3:00 P. M. shift. He was available to be called for this work, but was not called.

On November 14, 1965 an extra drill crew on the last shift, 11:00 P. M. to 7:00 A. M. was boarded for duty at East Penn Junction, Pa. to switch twenty (20) cars. After switching cars, train was made up, proper air test and inspection made and the related coupling of air hose made by Trainmen, and then train left departure yard.

Effective November 1, 1965, East Penn Junction at Allentown, Pa. was supposedly closed down and all work previously performed in this yard transferred to the Central Railroad Company of New Jersey yard at Allentown, Pa., as authorized by and in accordance with the provisions of the Interstate Commerce Commission Order in Finance Dockets Nos. 23151, 23152, 23153, 23154, 23155, and 23156.

As a result of this coordination between the Lehigh Valley Railroad and the Central Railroad Company of New Jersey all car inspectors positions at this seniority point were abolished, with the exception of three (3), effective November 1 1965. Prior to this date there had been eleven (11) car inspectors at this point.

3. The employees have failed to produce any rule or evidence to substantiate its position in this case.

4. The work herein complained of has never been assigned exclusively to any particular class of employees on this property.

Awards of the National Railroad Adjustment Board have been cited by the Carrier in support of its position.

Carrier respectfully submits this claim is without merit and should be denied.

(Exhibits not reproduced.)

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 waived right of appearance at hearing thereon.

Claimant is a regularly assigned carman on the 7:00 A. M. to 3:00 P. M. shift, who was available to be called on November 14, 1966 when the work in dispute was performed by members of an extra yard crew on the 11:00 P. M. to 7:00 A. M. shift.

No carmen were on duty when members of the extra yard crew coupled air hoses and made air tests on cars they were handling at Carrier's East Penn Junction yard, but carmen had previously been assigned at this location on a continuous basis prior to November 1, 1965. Petitioner contends that Carrier violated the basic Agreement between the parties as well as the National Agreement of September 25, 1964 when it assigned trainmen "* * *" to perform the work of carmen in making air brake test, inspection and the related coupling of air hoses incidental to such inspection and air brake test."

The fundamental issues involved in this dispute have been considered and decided by this Division in previous cases involving the same parties and Agreements. Awards 5462, 5439, 4971 and 5535.

Accordingly, the instant claim will also be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1968.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.