

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

Parties to Dispute: (System Federation No. 7, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Burlington Northern, Inc.

Dispute: Claim of Employees:

1. That the Carrier violated the current agreement when, accompanying a highway Cline truck and its driver, it brought in three (3) Carmen from Northtown, Minnesota in the Twin Cities District No. 1 to reraill one engine and six freight cars within the Staples, Minnesota yard limits in the Dakota-Fargo District No. 3 on March 19, 1972.
2. That accordingly the Carrier be ordered to compensate three (3) Staples Carmen, D. H. Frisk, M. H. Johnson and C. A. Simkin for seven (7) hours at the time and one-half rate for March 19, 1972.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

Claimants, all Carmen, were assigned to Carrier's Staples, Minnesota facility, located in the Dakota-Fargo Seniority District No. 3. On March 19, 1972 one engine and six freight cars derailed within the Staples yard. On the same day Carrier assigned a highway Cline truck with an operator and three carmen from Northtown, Minnesota to perform the rerailling service in the Staples yard. Northtown is approximately 135 miles from Staples and is located in Twin Cities Seniority District No. 1.

Petitioner argues that when wrecking service or repair service is to be performed, with the assistance of a Cline truck, men from the seniority district of the point of derailment must be assigned

to assist the operator of the Cline truck. Carrier argues that no rules in the current Agreement restricts the Northtown Carmen from performing Carmen's work in another seniority district. The relevant rules are as follows:

"Rule 26. SENIORITY

(f) Seniority districts will be as follows:

(1) TWIN CITIES DISTRICT: Includes all seniority points within the territory embraced by the Twin Cities Operating Division, such as

"(b) When wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit. For wrecks or derailments within the yard limits, sufficient carmen will be called to perform the work."

The crux of this dispute is reflected in Petitioner's contention that Carrier agreed to Seniority Districts and the work of the craft within the districts belongs to the Carmen employed in that district (and particularly the yard limits of a point in such a district). In support of this position, the Organization cites a number of Awards holding that Carmen's work at a particular seniority point is reserved to employes holding seniority in that craft at that point. However, we note that in Award 5739 and the other Awards relied on by Petitioner, the seniority provisions all read: "Seniority of employees in each craft covered by this agreement shall be confined to the point employed in each of the following departments....." Such a provision is not to be found in the Agreement herein. In fact, Rule 26 (e) contains such language restricted to new employees only. It is apparent that the parties could have adopted similar language to that contained in Rule 26 (e) had they so desired and agreed. They did not do so and it is not within our authority to rewrite the rules. Though we recognize the high importance placed on seniority rights by the Organization, we find no support for its position in either the Rules of the Agreement, or in the record of this dispute, or in Awards of this Board dealing with similar rules provisions. The claim must be denied.

A W A R D

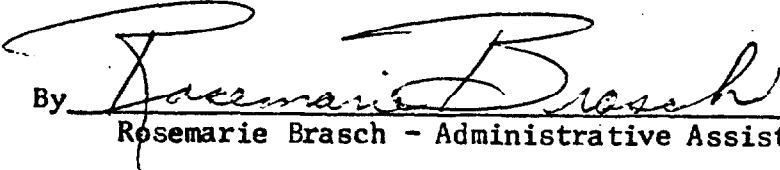
Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

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Award No. 6672
Docket No. 6551
2-BN-CM-'74

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of April, 1974.