

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

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

Dispute: Claim of Employees:

1. That starting with the date of December 11, 1972, Burlington Northern Inc. allowed or permitted employees from another corporation (Western Fruit Express) to come into Carrier's Shops at Parkwater, Washington and displace Carrier Electricians John Thrash, John Morlan, and Larry McElreath, from their assigned bulletined positions as maintenance and repair electricians on Refrigerator Express cars, thus forcing Claimants to accept other and less desirable positions with the Carrier.
2. That, accordingly, the Carrier be ordered to compensate the Claimants for eight (8) hours each work day, five (5) days a week, starting with date of December 11, 1972 and continuing until such time as Claimants are returned to their regular assigned bulletined positions.

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.

Certain cars, at the request of the Western Fruit Express Company (WFE), were pre-tripped at the Burlington Northern, Inc. (BN) Parkwater Shops in the BN's Yardley Yards. This work was performed by BN Electricians and paid for by WFE. As of December 13, 1972, WFE leased from the BN two tracks at the Parkwater Shops so that all of its own work could be performed at this leased location with its own employees. WFE thus took back its pre-tripping work from the BN. The WFE work on

WFE equipment at their leased tracks at the BN's Parkwater Shop is performed by WFE employees who are represented by the Brotherhood of Railway Carmen.

The Organization contends that the BN violated Rules 75, 76, 98 and 27 of their Agreement by allowing employees from WFE to come into the Parkwater Shops and displace BN Electricians from their assigned bulletined positions working on WFE equipment. We disagree.

First there can be no doubt but that the BN has every legal right to lease its facilities as it sees fit. Thus WFE, the tenant, has every right to do its work on its leased tracks.

The Organization's arguments concerning the Agreement between the BN and System Federation No. 7 must fail. It is fundamental that Rules on Seniority, Qualifications, Classification of Work and Pre-existing Rights cannot extend to and encompass work that does not belong to the BN. The rules of the BN and System Federation No. 7 Agreement apply only to work that the Carrier has to offer. WFE is not a party to this Agreement and has no rights or responsibilities under it.

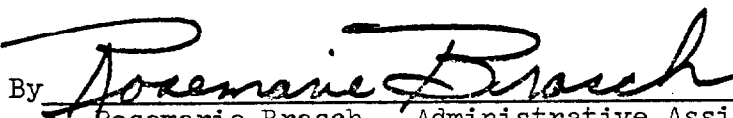
Special Board of Adjustment No. 839 Award No. 1, upon which the Organization relies is inapposite. In that case the work in question was warranty work on the carrier's own cars on the carrier's own property; in the case at hand the work in question was on another company's cars on the other company's leased tracks in the facility owned by the Carrier.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of April, 1975.