

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas 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 in violation of Rule 83 and Rule 27(a) of the current agreement, the Carrier improperly permitted or allowed other than Carmen to make repairs to BN Caboose #10292, consisting of inspecting, removing and applying air hose on January 17, 1973.
2. That, accordingly, the Carrier be ordered to additionally compensate Carman M. L. Redman four (4) hours at the pro rata rate for said violation.

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.

From the evidence of record it appears that a brakeman changed out an airhose on his caboose while his train was in a yard where carmen are employed. It further appears that the brakeman performed this work voluntarily without the authority, direction or permission of Carrier.

While there are two or more awards to the contrary, the majority and better reasoned awards of this Board hold that a voluntary act by an employe not entitled to the work without direction or knowledge by Carrier does not constitute a basis for a claim. The most recent pronouncement of this holding is Second Division Award No. 6858 where it was stated:

"This Board, in numerous awards of several Divisions has adopted the principle that work voluntarily performed by an employee without direction or control of Carrier, shall not support a claim by another for misassignment of work. We find such reasoning pertinent and persuasive herein and shall accordingly, deny the claim."

See also: Second Division Award No. 4803, and Third Division Awards No. 12951, 7793 and 4992.

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
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 8th day of August, 1975.