

The Second Division consisted of the regular members and in addition Referee Theodore H. O'Brien 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 Burlington Northern Inc. is in violation of Rule 98(c) when on August 5, 1975, the work of cleaning and servicing of way cars was arbitrarily removed from the class of coach cleaners and assigned to employees of the International Brotherhood of Firemen & Oilers (laborers), Alliance, Nebraska.
2. That accordingly, the Burlington Northern Inc. be required to compensate Coach Cleaner L. Bordeaux, Alliance, Nebraska eight (8) hours at punitive rate for each day commencing August 5, 1975, and continuing until this claim is adjusted and the above work returned to the Carmen's Craft (Coach Cleaners).

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.

The Carrier maintains a Train Yard and Repair Track which employes a number of coach cleaners assigned to cleaning cabooses at Alliance, Nebraska, which is part of the former Chicago, Burlington and Quincy Railroad. The petitioning Organization has processed this claim on behalf of the Claimant who is a Coach Cleaner at Alliance. In August of 1975, the Carrier assigned the work in question to employees represented by the International Brotherhood of Fireman and Oilers. The petitioning Organization alleges that Coach Cleaners have exclusive rights to this work at Alliance, Nebraska under the provision of Rule 98(c), inasmuch as they performed the work continuously at that point from the beginning of pooled cabooses (mid 1957) to the date giving rise to the instant claim, August 5, 1975.

On March 3, 1970, the Northern Pacific, Great Northern, Chicago, Burlington and Quincy and the Spokane, Portland and Seattle Railroads were merged into one Carrier now known as the Burlington Northern Inc. Rule 98(c), upon which the Organization relies, was negotiated to preserve the practices historically in effect on the former railroads prior to the merger of March 3, 1970. Rule 98(c) states as follows:

"It is the intent of this Agreement to preserve the pre-existing rights accruing to employees covered by the Agreements as they existed under similar rules in effect on the CB and Q, NP, GN and SP and S Railroads prior to the date of the merger; and shall not operate to extend jurisdiction or Scope Rule coverage to agreements between another organization and one or more of the merging Carriers which were in effect prior to the date of merger."

The matter of application of Rule 98(c) was the subject of extensive treatment in Second Division Award No. 6867 (Twomey), involving the same Carrier as in the instant claim and the Sheet Metal Workers, and in Second Division Award No. 7244 (Roadley), involving the same parties that are before us in the instant claim. Those awards found that in order for work to be retained based solely on the provisions of Rule 98(c), the claiming party must show an exclusive system-wide practice on the former component railroad prior to the merger. Based on the reasoning in those awards and the lack of evidence that the practice at Alliance, Nebraska was system-wide on the former Chicago, Burlington and Quincy Railroad, we will dismiss the claim.

A W A R D

Claim dismissed.

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 4th day of April, 1978.