

The Second Division consisted of the regular members and in addition Referee Robert G. Williams 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 Rules 83, 93 and 98(c) when on May 16, 1974 the work of cleaning, oiling, repairing and repacking Spicer drive units on passenger car trucks was arbitrarily removed from the class and craft of Carmen and assigned to employees of the Machinist Craft, Jackson Street Shops, St. Paul, Minnesota.
2. That accordingly, the Burlington Northern Inc. be required to compensate Passenger Carmen T. Holter and J. Helms, Como Shops, St. Paul, Minnesota for four (4) hours each at the pro rata rate for each work day, Monday through Friday, commencing August 15, 1974, and continuing until this claim is adjusted and above mentioned work is returned to the Carmen Craft.

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 employees 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.

This case arose out of the transfer of certain work on Spicer Drive Units. Prior to May 16, 1974 the work in question was performed by Carmen. On May 16, 1974 the Jackson Street Shop was placed under the supervision of the Locomotive Department and the work on the Spicer Drive Units was transferred to Employees of the Machinist Craft. This claim, protesting this transfer, then was filed on October 14, 1974, some five months after the work was transferred.

The threshold issue in this case is whether this claim has been timely filed. Rule 34(a) provides that a claim must be presented within sixty (60) days from the date of the occurrence on which the claim is based. Rule 34(d) provides that a claim may be filed at any time for an alleged continuing violation. A continuous violation involves repeated occurrences of some improper action of the Carrier. In this case the only occurrence involving Carrier actions was the transfer of work on May 16, 1974. Numerous awards have held that a claim based on a singular occurrence is not converted into a continuing violation merely because liability continues to accrue. This claim was filed more than sixty (60) days after the occurrence on which it is based. This Board therefore must deny the claim.

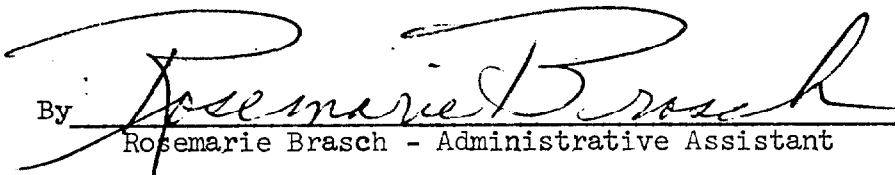
A W A R D

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 12th day of July, 1978.