

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. 6, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Chicago, Rock Island and Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement, Carrier improperly assigned other than Carmen (Isringhausen Company) to dismantle nine (9) railroad cars at its Armourdale, Kansas Train Yard.
2. That the Carrier reclaimed usable parts, A. B. brake valves, air brake cylinders, angle cocks, air hoses, journal bearing draft gears, yokes, cross keys, couplers, roller bearing wheels, friction bearing wheels, hand brakes, hand brake wheels, side and end ladders, sill steps, etc.
3. That accordingly, Carrier be ordered to make the Carmen whole by additionally compensating the following Carmen 8 hours each at the time and one half rate for 10 days pay each, Carman K. Keele, G. Reardon and J. Ulreich.

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 in this case entered into agreements in 1975 with an outside firm for the purpose of scrapping and retiring freight cars. Each agreement set a firm price for each car less usable parts. The record does not show the value of such usable parts or the cost to the carrier of recovering such parts. The record does not show the value of the scrap. The Carrier entered into leases permitting the outside firm to enter upon the Carrier's property to perform its work.

Numerous awards have held that a Carrier is free to sell its property and such a sale would not violate Classification of Work Rules. The basic issue in such cases is whether the primary purpose of the agreement is a sale or is it a contracting out of work covered by a Classification of Work Rule. In this case, the agreement includes a firm price which tends to show a sale. On the other hand, the term requiring the return of reusable parts tends to show the Carrier was contracting out the work. Given these terms in the agreement, the Carrier was receiving the same benefits from the outside firm that it would have received from the Claimants had they performed the work. The purpose of the agreement therefore appears to be primarily a contracting out of work rather than a sale of property. See Second Division Awards 6529 and 6800.

A W A R D

Claim sustained at pro rata rate.

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 15th day of August, 1978.