

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Delaware and Hudson Railway Company

Dispute: Claim of Employees:

1. That the Delaware and Hudson Railway Company violated Rule 21(a) and Rule 88 of the current controlling Agreement, and the Binghamton, New York Coordinating Agreement when they improperly allowed crippled cars to be removed from QD Yard, Binghamton, New York (D&H) to Elmore, New York (Conrail) to be repaired on Conrail property while there were furloughed Delaware and Hudson Carmen available to perform the work.
2. That accordingly, the Delaware and Hudson Railway Company be ordered to compensate the following furloughed Binghamton, New York Carmen in the amount of twelve (12) hours' pay each at pro rata rate: Curtis D. Decker, Joseph P. Franks, Vincent J. Pettinato, Anthony G. Stillittano, and David P. Fancher.

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.

On November 16, 1977, 25 bad order cars were removed from the Carrier's yard to certain Conrail property.

The Carrier states that the decision to move the crippled cars was made by Conrail Officials, and was a decision which was clearly within the prerogative of Conrail management to make. Thus, the Delaware and Hudson Railway Company asserts that it has no responsibility for any movement of Conrail cripples from one location to another Conrail facility.

We have reviewed the portion of the agreement cited by the Employees in this case; but the issue is whether or not the Company had the right to make the movement at issue, and we find nothing in the agreement that would remotely suggest that the Company engaged in any violation of the Employees rights.

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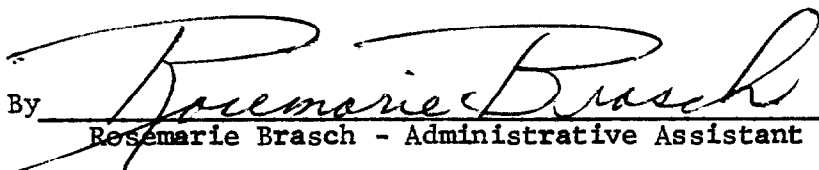
Award No. 9085
Docket No. 8831
2-D&H-CM-'82

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.