

The Second Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rule 8 of the controlling Agreement May 30, 1979 when they used Carman J. E. Sultzer to stencil reporting marks on MP 786271 and 786421 at Barton Street Shop, St. Louis, Missouri.
2. That the Missouri Pacific Railroad Company be ordered to compensate Painter G. M. Garza in the amount of eight (8) hours at the straight time rate for their violation of May 30, 1979.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Claimant G. M. Garza is a Painter employed in Carrier's Barton Street Shops in St. Louis, Missouri. His rest days are Wednesday and Thursday. On May 30, 1979, Carrier directed Carman J. E. Sultzer to stencil reporting marks on Missouri Pacific cars. Sultzer did not hold a Painter's job. Claimant alleges that painting work is work generally performed by Painters and that, as such, he should have been called to do the stenciling. The work should not have been given to a Carman.

Carrier disputes Claimant's position and argues that where painting must be done, a regularly assigned Carman who is not regularly assigned as a Painter can do such work if a regularly assigned Painter is not on duty. There is no requirement in the Schedule Agreement for the carrier to call a Painter from the overtime list in such a situation. Carrier further argues that in Award No. 8608 involving this Carrier and this Organization and an identical issue, Referee Marx denied the claim. The Board should do the same in this instance.

This Board as Carrier points out, has decided an identical issue in Award No. 8608, wherein it denied the claim. Our reasoning in that case applies equally as well to this case. The issue has been settled.

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Award No. 9136
Docket No. 9032
2-MP-CM-'82

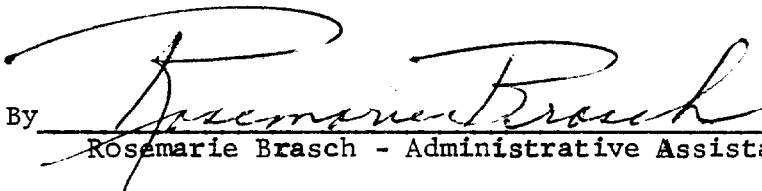
A W A R D

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 16th day of June, 1982.