

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: ( International Brotherhood of Firemen and Oilers  
( Southern Pacific Transportation Company (Pacific Lines)

Dispute: Claim of Employees:

1. That Southern Pacific Transportation Company (Pacific Lines), violated Rules 6 and 7 of the current agreement between the aforementioned Carrier and the Firemen and Oilers Craft, when Trainmaster Mr. G. M. Gorman, issued instructions which took the work of operating a carryall away from the Firemen and Oilers Craft and turned it over to Fresno Yard Clerks.
2. That accordingly, the Southern Pacific Transportation Company, be ordered to pay the difference between Laborer's rate of pay and Motor Truck Operator's rate of pay to:

R. L. Welker - 8 hours a day - 5 days a week  
A. P. Pina - 8 hours a day - 5 days a week  
E. Borrego - 8 hours a day - 5 days a week  
J. R. Alvarez - 8 hours a day - 3 days a week  
R. P. Borrego - 8 hours a day - 2 days a week  
T. J. Seanez - 8 hours a day - 1 day a week

Since May 13, 1980, until the work of operating the carryall and the transporting of crews are returned to Firemen and Oilers 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 employes involved in this dispute are respectively carrier and employes 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 were given due notice of hearing thereon.

The Organization contends that Carrier violated the Controlling Agreement, particularly Rules 6 and 7 when Carrier allegedly took the work of operating a carryall away from the Firemen and Oilers Craft and assigned it to the Fresno Yard Clerks. It argues that the work was performed by firemen and oilers for over twenty-five (25) years and was recognized as exclusive work. Its position seeks compensatory reimbursement for six (6) employees, effective May 13, 1980 and continuing thereafter until the work is returned.

Carrier asserts that the petition is procedurally defective since the Organization has not set forth the specified dates or times of occurrences when the Agreement violation occurred. It avers that it is vague and indefinite and constitutes a blanket claim. It argues that it is not responsible for developing a nebulous claim. Carrier further asserts it is not restricted by Rules 6 or 7 from assigning this work to other employees since neither Rule 6 nor Rule 7 defines the specific type of work in this dispute. Moreover, it argues that past practice clearly shows that Claimants have been assigned this work as well as clerical employees at Fresno. It submitted three signed statements by clerical employees at the Fresno situs who stated that the work has been performed by yard office, freight office and diesel shop forces. It maintains that even though employees represented by the Organization have performed such work, it does not make it exclusive to that one craft when employees covered by other Labor Agreements perform the same work at Fresno and at other points on the property. It cited several Second Division Awards on the definition and application of exclusivity. (See Second Division Award Nos. 7461, 7482, 7861. In addition, see Award No. 1 of Public Law Board 1818.)

The Brotherhood of Railway, Airline and Steamship Clerks (BRAC) as a third party of interest support Carrier's position that no particular craft or class of employees has ever been assigned the exclusive right to transport train service crews. BRAC also argues that the work is now preserved to the clerks since July 1, 1979 when BRAC and the Carrier amended the Scope rule to protect the work and/or positions attached to crew hauling. It avers that employees represented by BRAC have hauled crews at Fresno for some thirty (30) years and asserts that with the abolishment of Yard Clerk positions at Fresno, the job of transporting crews was assigned to various yard office clerical employees.

In our review of this case, we concur with Carrier's position. We have examined Rules 6 and 7, but we cannot conclude that either rule explicitly reserves this work to the Firemen and Oilers. From the record it appears that both contesting crafts have performed this work at Fresno, California. Several clerks have submitted such documentation. Outside of the assertion that the aforesaid rules were violated, the Organization has not adduced any additional supportive proof. Lacking this specific information, the Board has no measurable basis for determining objectively the claim's merits. Unfortunately, under these circumstances, we are compelled to deny the claim.

Form 1  
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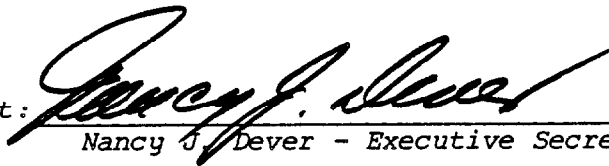
Award No. 10016  
Docket No. 9439-T  
2-SP-FO-'84

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

A handwritten signature in cursive script, appearing to read "Nancy J. Dever", is written over a horizontal line.

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of August, 1984.