

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (International Association of Machinists and
(Aerospace Workers
(Consolidated Rail Corporation

Dispute: Claim of Employees:

1. That the Carrier violated the Controlling Agreements when they used Carmen to perform Machinists work at the Reading Shops Rip Track.
2. That the Carrier be required to compensate Machinists Donald Himmelreich and Norman Lamm eight (8) hours pay each, at the applicable rate for January 2, 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 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 waived right of appearance at hearing thereon.

The Carmen, a third party at interest, were notified of this dispute and made a response.


The claim in this matter is deficient in that it fails to cite any rule which is alleged to be violated by the Carrier in directing the performance of certain work at the Reading Shops Rip Track. Without such reference, the Board has no basis on which to proceed in resolving the matter. Among many awards to this effect is Third Division Award No. 19970, which states in pertinent part as follows:

"A thorough review of the record before us shows that, during the handling of this dispute on the property, the Organization did not identify which Rules in the Agreement had allegedly been violated but merely asserted '... a violation of the provisions of the seniority and other related rules.' It is a long established principle of this Board that failure to assert the specific Rule, or Rules, allegedly violated while the matter is being handled on the property is fatal to the claim when presented to this Board. See Awards 14754, 13282, 13741, 14118, 14772 and many others. We will accordingly dismiss the claim on the basis of the procedural defect."

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: 

Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 3rd day of October 1984.