

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. On September 24, 1979, the Chicago and North Western Transportation Company assigned switchmen to couple air hoses on 18 freight cars on a 51 car Transfer Drag in Pool Yard, Council Bluffs, Iowa.
2. That the Chicago and North Western Transportation Company be ordered to compensate Carman C. Linden two and seven-tenths (2.7) hours pay at the overtime rate, account Carrier violated the controlling agreement, Article VI, Section (c) of the January 12, 1976 Agreement, and Article V of the September 1964 Agreement.

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 United Transportation Union, a third party at interest here, declined to intervene in the dispute.

This dispute concerns the assignment of Switchmen to "couple air hoses" on 18 freight cars on a 51-car "transfer drag" in the Pool Yard, Council Bluffs, Iowa.

The Organization claims that this work should have been performed by a Carman and looks to Article VI of the January 12, 1976 Agreement and Article V of the September 25, 1964 Agreement, which read in pertinent part as follows:

"(a) In yards or terminals where carmen in the service of the carrier operating or servicing the train are employed and on duty in the departure yard, coach yard or passenger terminal from which trains depart, such inspecting and testing of air brakes and appurtenances on trains as is required by the carrier in the departure yard, coach yard or passenger terminal, and the related coupling of air, signal and steam hose incidental to such inspection, shall be performed by the carmen.

(b) This rule shall not apply to the coupling of air hose between locomotive and the first car of the outbound train; between the caboose and the last car of an outbound train or between the last car in a 'double-over' and the first car standing in the track upon which the outbound train is made up.

(ARTICLE V - COUPLING, INSPECTION AND TESTING - Paragraphs (a) and (b) - from September 25, 1964 Agreement)

(c) If as of July 1, 1974 a railroad has carmen assigned to a shift at a departure yard, coach yard, or passenger terminal from which trains depart, who performed the work set forth in this rule, it may not discontinue the performance of such work by carmen on that shift and have employees other than carmen perform such work (and must restore the performance of such work by carmen if discontinued in the interim), unless there is not sufficient amount of such work to justify employing a carman. ..."

The Organization also refers to Rule 124 which reads in pertinent part as follows: "Carmen's work shall consist of ... air hose coupling in train yards and terminal ...". While there is no question as to the content of Rule 124 outlining Carmen duties, it is equally clear that this must be read in conjunction with the 1964 and 1976 Agreements cited above.

The language of the 1964 and 1976 Agreements has been the subject of many previous awards which determined whether or not Carmen were entitled to perform the type of work under consideration here. Accepted as three criteria supporting Carmen's claims are the following:

1. Carmen in the employment of the Carrier are on duty.
2. The train tested, inspected or coupled is in a departure yard or terminal.
3. That the train involved departs the departure yard or terminal.

The record before the Board in this instance demonstrates that the cars in question were in yard transfer, indicating that the third criterion is not met, and perhaps the second criterion as well. The early phases of the claim also concerned the availability of Carmen of the work, if they were indeed entitled to it. This, of course, needs no resolution in view of the failure to meet the requirements of the other two criteria.

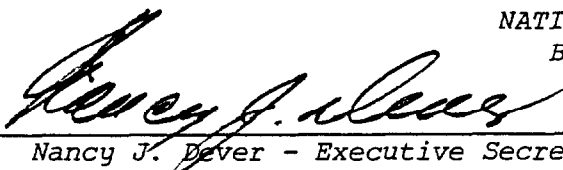
Award No. 9782 is among the most recent reaching the same conclusion under similar or identical circumstances.

A W A R D

Claim denied.

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.