

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: (International Brotherhood of Fireman and Oilers
(Clinchfield Railroad Company

Dispute: Claim of Employees:

1. That the Clinchfield Railroad Company violated the Controlling Agreement, particularly Rule 1 Scope, when wrecker car attendant Laborer Buford Rogers, Erwin, Tennessee, was not called for wrecking service account of other employees used as wrecker attendant on the following dates: September 9, 1979; September 10, 1979; September 11, 1979 and September 23, 1979.
2. That accordingly the Clinchfield Railroad Company be ordered to compensate Laborer Buford Rogers in the amount of thirty-nine (39) hours at punitive rate of pay for September 9, 1979; September 10, 1979; September 11, 1979 and September 23, 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 employees 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 Brotherhood of Maintenance of Way Employees was notified of this claim as a possible party at interest but it declined to intervene.

Claimant, a former but now retired Laborer at Erwin, Tennessee, alleged that the Carrier violated the Scope Rule of the applicable Agreement when it purportedly assigned wrecker attendant duties to workers in another craft. In 1958, Claimant successfully bid for an as-needed Laborer position on the wrecking crew to perform miscellaneous cleaning duties and to assist the cook. The assignment was supplemental to his regular shop position. On four days in September, 1979, the Carrier allegedly instructed a Laborer in another craft to perform miscellaneous cleaning chores in wrecking service. According to the Organization, the Scope clause in the applicable Agreement incorporated the well entrenched, twenty year practice of assigning Claimant, to the exclusion of all other crafts, to the duties associated with the wrecker attendant. The Carrier specifically denied that any wrecking service was performed on September 9 and 10, 1979 and affirmatively argued that Claimant did not have the exclusive right to perform the work in dispute by either rule or past practice on the other two claim dates.

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Award No. 10171
Docket No. 9076-T
2-CRR-FO-'84

This Board has recently decided an identical dispute between these same parties. In Second Division Award No. 9754, we ruled that the Organization failed to prove a past practice which would exclusively entitle Claimant to perform the disputed work so long as the work was not performed by either a supervisor or an employee of another railroad. Applying the principles enunciated in Second Division Award No. 8270, our decision in Award No. 9754 conclusively disposed of the issues in the record before us.

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 9th day of January 1985.