

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

(Brotherhood Railway Carmen of the United
(States and Canada, AFL-CIO
Parties to Dispute: (The Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. That the Louisville and Nashville Railroad Company on July 19, 1980, after abolishing the Carmens positions at Dent Yard, Dent, Kentucky allowed Trainmen to perform the Carmens work.
2. Accordingly, the Louisville and Nashville Railroad Company should be ordered to compensate the Hazard, Kentucky Train Yard Miscellaneous Overtime Board eight (8) hours at the time and one-half rate of pay in favor of the first out available man for each shift beginning with the First Shift on July 19, 1980, and the next out man for each shift thereafter until this matter is disposed of.

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.

Dent Yards are less than fifteen miles from the Carrier's Hazard, Kentucky Shops. Prior to 1979 Carmen were not employed at Dent Yards. In 1979 due to an increase in the coal business in Eastern Kentucky, four Carmen positions were placed at Dent Train Yards. These positions were bulletined and awarded to four individuals from the Hazard seniority roster. Due to a business slump in 1980, the four Carmen positions at Dent were abolished as of April 29, 1980. Thereafter Trainmen performed the duties of coupling air hoses and making air brake tests in connection with their trains at Dent yards.

The Organization contends that performance of such work by Trainmen is in violation of Rule 30 (c), Rule 104 of the General Rules of the Agreement and also Article V of the September 25, 1964 Agreement; the Carrier disagrees.

We find that the coupling and uncoupling of air hoses and the making of air brake tests is not work exclusively reserved to Carmen under either Rule 30 or Rule 104 of the Agreement of the parties.

Article V (a) of the September 25, 1964 National Agreement which is relied on by the Organization states:

"In yard 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."

The above quoted language clearly restricts the application of the article to facilities where "Carmen are employed and on duty."

No Carmen were employed and on duty at Dent yards as of July 19, 1980 (the initial claim date cited by the Organization). Nor were Carmen assigned to Dent Yards thereafter. This being the case, Article V (a) was not violated when trainmen performed the duties of coupling air hoses and making air brake tests in connection with their trains at Dent Yards.

We find that the Organization has not demonstrated that the conditions set forth in Article VI (c) of the December 4, 1975 National Agreement, which amended Article V of the September 25, 1964 National Agreement, were present in the instant case, such that the work in question would be reserved for the Carmen claimants. Clearly as of July 1, 1974 no Carmen were employed at Dent Yards; and this paragraph (c) of Article VI is not applicable to this case.

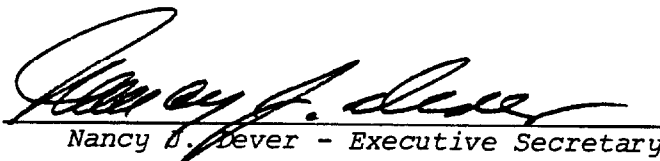
We must deny this claim.

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 30th day of January 1985.