

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10489
Docket No. 10093
2-UP-CM-'85

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

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Union Pacific Railroad Company

Dispute: Claim of Employees:

1. That under the Agreement dated June 15, 1944 the Union Pacific Railroad Company improperly assigned Carmen employees from outside the Salt Lake City, Utah seniority district from February 26 through March 2, 1980 to cutup cars for scrap that were damaged in a derailment at Layton, Utah.
2. That accordingly, the Union Pacific Railroad Company be ordered to compensate the following Carmen in the amount of fourteen (14) hours pay each for the dates designated:

<u>February 26, 1980</u>	<u>February 27, 1980</u>	<u>February 28, 1980</u>
B. H. Murdock	T. C. Andrus	R. E. Warner
V. G. George	W. T. Saunders	R. B. Oseguera
L. C. Finster	G. R. King	R. L. Sadler
J. M. Wille	C. R. Morin	T. E. Walters
K. D. Mechling	J. G. Adams	J. C. Atwood
J. S. Norton	L. G. Jordon	D. J. Kubinski
B. R. Finster	F. D. McKellar	W. D. Campbell
J. M. Gardner	S. L. Garr	J. M. Slone
 <u>February 29, 1980</u>	 <u>March 1, 1980</u>	 <u>March 2, 1980</u>
T. Hernandez	D. A. Potter	E. D. Foster
D. M. Perkins	D. N. Boston	L. D. Cox
A. G. Frazier, Jr.	J. F. Worthen	M. W. Sherwood
E. J. Vest	A. W. Robinson	D. C. Parkin
P. E. Nolan	L. A. Johanson	E. G. Hunick
J. A. Baldwin	D. L. Butterfield	J. S. Bailey
M. K. Day	J. W. Holtz	J. H. Kinder
M. Robinson	C. H. Hudson	C. H. Hudson

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 Rule 31 when Carrier assigned eight (8) Carmen from Pocatello, Idaho to cut-up eleven (11) freight cars at Layton, Utah. The Organization maintains that consistent with the June 15, 1944 Agreement, consummated at Omaha, Nebraska between the General Superintendent, Motive Power and Machinery, and the Carmen's General Chairman, both Clearfield and Warner, Utah were included within the seniority district of Salt Lake City. It argues that since Layton is located between Salt Lake City and Clearfield, Utah, the work pursuant to the clear language of Rule 31 should have been routinely assigned to Claimants. It avers that Carrier recognized this extension of point seniority when Carmen from Salt Lake City were assigned to apply ACI labels to freight cars from Clearfield to Woods Cross, Utah in April, 1969 and asserts that its position is supported by Second Division Award No. 9004.

Carrier argues that Layton is not within the point seniority jurisdiction of Salt Lake City, and thus, employees with point seniority at Salt Lake City are not entitled to work outside of this location. It asserts that the June 15, 1944 Agreement was purposely crafted to include Carmen at Clearfield and Warner on the Salt Lake City Seniority Roster for the singular purpose of filling jobs at these two sites. It maintains that the intent of the Agreement was to protect jobs at Clearfield and Warner and not to extend the limits of the seniority point of Salt Lake City to encompass areas between Salt Lake City, Clearfield and Warner. Moreover, it observes that the aforesaid Agreement was expressly limited to the duration of the World War II emergency; and disputes the Organization's contention that Carrier de facto continued its application by subsequent actions.

In considering this case, the Board concurs with Carrier's position. Careful analysis of this Agreement reveals that it was intended to be a time limited agreement, and not an unlimited understanding. Of course, a subsequent course of conduct could indicate that the parties intended an indefinite extension of the agreement and by consistent application the correlative inclusion of areas between Salt Lake City and Clearfield and Warner within the point seniority jurisdiction of Salt Lake City, but the evidence does not support this view. With the exception of the Organization's unverified assertion that in April, 1969, Carmen from Salt Lake City affixed ACI labels on freight cars from Clearfield to Woods Cross, Utah, there is no evidence that Carrier considered locales between Salt Lake City and Clearfield and Warner as within the point seniority jurisdiction of Salt Lake City. Accordingly, we cannot conclude that Rule 31 was violated.

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 7th day of August 1985.