

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

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

Dispute: Claim of Employees:

1. That the Baltimore and Ohio Railroad Company violated the controlling Agreement when on the date of January 2, 1983, they arbitrarily deprived Carmen, M. Perillo, W. Mora, and M. Rubin, (New Castle Junction, PA) Youngstown, Ohio, of work to which they were contractually entitled, work of inspecting, testing air brakes, coupling, etc., as per the provisions of Rule 144 1/2, Claimants laid-in, placed in temporary furloughed status from the date of December 24, 1982, the date of January 3, 1983, and Carrier allowed train crews to perform their work in direct violation of Rule 144 1/2 of the controlling Agreement.

2. That accordingly, Carrier be ordered to compensate Claimants herein for all monetary losses incurred as a result of such violation of their agreement, as follows: Carmen, M. Perillo, W. Mora, and M. Rubin, each, eight (8) hours pay at the time and one-half rate, on the date of January 2, 1983.

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 Claimants were Carmen assigned at the New Castle, Pennsylvania Yard. Effective with the end of their tour of duty on December 23, 1982, all Carmen positions at that Yard were abolished and the incumbents were furloughed.

In its Claim, the Organization essentially asserts that the Carrier operated trains at New Castle on January 2, 1983, while the Claimants were still on furlough and that train crews performed the work of inspecting, testing air brakes, coupling, etc. The Organization states that this kind of work accrues to their craft, essentially by virtue of Rule 144 1/2 of the Controlling Agreement.

The United Transportation Union was advised of this Claim. However, it chose not to intervene as a Third Party in interest.

We have closely examined the Submissions of the parties and find that the substantive issues and circumstances of this record are essentially the same as set forth in Second Division sustaining Award No. 10117, adopted on October 10, 1984, between the same parties. Since the facts are identical and since no new evidence has been adduced which would require this Board to reach a different conclusion, we sustain Part 1 of this Claim on the basis of Award No. 10117.

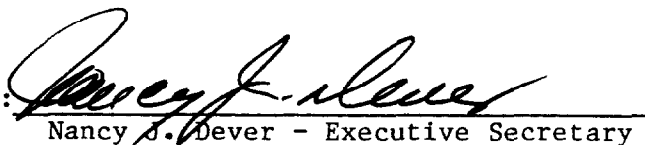
With respect to Part 2 of the Claim, the violation cannot be considered merely technical, since the Petitioner did lose work. Moreover, the Board notes that the damages claimed were not challenged on the property, although the Carrier had ample opportunity to do so. Accordingly, following the same concepts that control the parties with respect to other matters not raised on the property, we will sustain the amount of damages claimed.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 25th day of June 1986.