

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10911
Docket No. 10462
2-B&M-CM-'86

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

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(Boston and Maine Corporation

Dispute: Claim of Employees:

1. That the Boston and Maine Corporation violated the current controlling agreement, specifically Rule 8, when Carmen stationed at Lowell, Massachusetts were assigned to perform Carmen's work in Yard 8, Boston, Massachusetts on October 1 and 2, 1982.

2. That accordingly, the Boston and Maine Corporation be ordered to additionally compensate Carmen T. J. Hardy and M. A. McCarthy in the amount of sixteen (16) hours each at the time and one-half rate account of the violation on October 1 and 2, 1982.

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.

In April, 1981, the Carrier transferred its repair track operation from Boston to Lowell, Massachusetts. As a result, two Carmen positions were established at Boston for the purposes of inspection and routine maintenance of freight operations. On October 1 and 2, 1981, the Carrier assigned two Carmen from its Lowell facility to perform semi-heavy repair work at Boston. The Claimants hold regular Carmen assignments at Boston and believe they should have been assigned the work.

The Organization maintains that the Carrier violated Rule 8, which provides that qualified men will be called equally for purposes of overtime distribution, and that the Claimants were both available and qualified. Rule 8 is quoted in pertinent part below:

"(b) Records will be kept of overtime worked and qualified men called with purpose in view of distributing the overtime equally".

The Organization also argues that overtime lists are maintained at each location where Carmen are employed, and that extra work at such locations is allocated to employees on the appropriate overtime list.

While the Organization acknowledges that it may have been necessary for the Carrier to use Lowell Road Truck equipment to provide the necessary welding machinery, it does not agree that the Carrier should deny employees on the Boston Overtime Board their right to work performed within their own work location. Thus, the Organization asserts, the Carrier should have permitted the Claimants to use the Lowell truck equipment to perform the work in dispute.

The Carrier notes that when it transferred the repair truck operation to Lowell it sent all heavy repair equipment as well. Thus, Carmen from the Lowell crew are assigned to perform all semi-heavy repair work because equipment common to a repair track facility is no longer available at Boston. Besides, the Carrier argues, Carmen regularly assigned to the Boston facility are primarily assigned to light maintenance and inspection for crippled cars, and have no responsibility for the type of work performed by the two Carmen from the Lowell facility.

The Carrier also maintains that Rule 8 (Distribution of Overtime) is irrelevant since the instant case relates to availability of equipment. Moreover, the Carrier asserts that Rule 11 of the Schedule Agreement provides for utilization of road truck crews at outside point locations where repair track facilities do not exist, and that such a practice is common throughout the Carrier's entire system.

After careful study of the parties' positions, we find no evidence that the work in question is exclusively reserved to Carmen at the Carrier's Boston facility. Furthermore, we find persuasive the Carrier's argument that it is common practice throughout its entire system to use specialized equipment from repair trucks and rip track facilities for heavy repair such as the work in question.

We also find no evidence in the record that Rule 8 was violated. The work performed by the Lowell employees was work not normally done by Carmen at Boston, who have as their primary responsibility the inspection and light maintenance of freight cars. Semi-heavy repair work ceased being their responsibility with the transfer of the Carrier's repair track operation to Lowell in April, 1981.

We have also considered Second Division Award 6836, submitted by the Organization in support of the Claim, but find it distinguishable from the instant case. In that case the Carrier bypassed the Claimant and assigned work to another employee on the same Overtime Board merely to avoid the

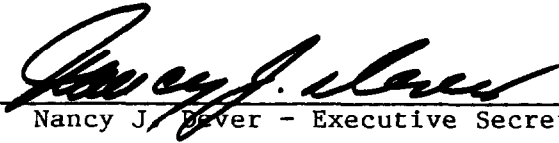
payment of double time to the Claimant. The Carrier ultimately called upon every employee on the Train Yard Overtime Board except the Claimant, then without calling him, called employees from the Repair Track Board. Such behavior conflicted with the parties' valid past practice requiring the Carrier to exhaust the Train Yard Overtime Board before turning to the Repair Track Overtime Board. We find no evidence of such past practice in the instant case with regard to the nature of the work involved.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of July 1986.