

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: (

(Green Bay and Western Railroad Company

Dispute: Claim of Employees:

1. That at the Wisconsin Rapids yard on June 12, 13, 16, 17, 18, 19, 20, July 3, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 1981 the Green Bay & Western Railroad Company violated the controlling Agreement when they assigned Section Man G. Randrup to perform Carmen's work, that of coupling and testing of air, car inspection and other Carmen duties rather than assigning this work to Carman K. Simons, who had, over the prior four year period, been assigned to relieve this position.

2. That Carman K. Simons be compensated for:

06/12/81	2 hours travel time per Rules 3 and 14 8 hours working time per Rule 15 Sec. 1
06/13/81	2 hours travel time per Rules 3 and 14 8 hours working time at pro rata rate
06/16/81	2 hours travel time per Rules 3 and 14 8 hours working time at the pro rata rate
06/17/81	8 hours working time at the pro rata rate
06/18/81	8 hours working time at the pro rata rate
06/19/81	2 hours travel time per Rules 3 and 14 8 hours working time at the pro rata rate
06/20/81	8 hours pay per Rule 15 Sec. 1
07/03/81	2 hours travel time per Rules 3 and 14 8 hours working time per Rule 15 Sec. 1 2 hours travel time per Rules 3 and 14, as well as Rule 15 Sec. 1
07/07/81	2 hours travel time per Rules 3 and 14 8 hours working time at the pro rata rate
07/08/81	8 hours at the pro rata rate
07/09/81	8 hours at the pro rata rate

07/10/81 8 hours at the pro rata rate

07/11/81 2 hours travel time per Rules 3 and 14  
8 hours at the pro rata rate  
2 hours travel time per Rules 3 and 14

07/14/81 2 hours travel time per Rules 3 and 14  
8 hours working time at the pro rata rate

07/15/81 8 hours at the pro rata rate

07/16/81 8 hours at the pro rata rate

07/17/81 8 hours at the pro rata rate

07/18/81 2 hours travel time per Rules 3 and 14  
8 hours at the pro rata rate  
2 hours travel time per Rules 3 and 14

07/21/81 8 hours pay per Rule 15 Sec. 1

by reason of Section Man G. Randrup's assignment to perform Carmen's work was in violation of Rules 22, 27 and 53 of the controlling Agreement dated September 1, 1949, revised December 1, 1956, on June 12, 13, 16, 17, 18, 19, 20, July 3, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 1981.

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 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 Carrier's facility at Wisconsin Rapids, Wisconsin contains a small yard area where minor repairs can be made to cars and to the three locomotives kept there. Prior to 1979 the Carrier had one Car Inspector employed at the Wisconsin Rapids facility. Soon thereafter the Carrier assigned a second Car Inspector there. Both of these employees were former Maintenance of Way Employees.

On June 12, 13, 16, 17, 18, 19 and 20, 1981, Car Inspector C. Peterson went on vacation; on July 6, 7, 8, 9, 10, 13, 14, 15, 16 and 17, Car Inspector G. Grandkoski did the same. For both periods, the Carrier called Maintenance of Way employee G. Randrup to relieve on the Car Inspector positions. Randrup worked under the Rules governing mechanical (Car Department) employees, worked under the provisions of the Carmen's Agreement, and was paid at the Car Inspectors' rate.

The Claimant is Carman K. Simons. The Organization asserts that he had been assigned to relieve on these positions over the previous four year period. Furthermore, the Organization maintains that the work performed by Randrup (coupling and testing of air, car inspection) was Carmen's work and therefore improperly assigned to Randrup. The Organization relies on Rule 14 to support its position:

"When it is necessary to fill temporary vacancies at outlying points, employees sent out will be paid for this service as follows . . . ."

The Carrier argues that the Claimant was regularly assigned to its Green Bay facility, some 100 miles from Wisconsin Rapids, and that he had no seniority rights at the latter facility. Moreover, the Carrier asserts that Article 12(c) permits it to use a temporary hire for vacation relief, and that Randrup was considered a new hire. Article 12(c) is quoted in pertinent part below:

"A person other than a regularly-assigned relief employe temporarily hired solely for vacation relief purposes will not establish seniority rights unless so used more than 60 days in a calendar year. . . ."

From the above Rule, it seems clear that the Carrier can use new hires temporarily for vacation relief. However, Mr. Randrup was not a "regularly-assigned relief employe temporarily hired solely for vacation relief," per the terms of Article 12(c). He was a regularly-assigned Maintenance of Way employee. Accordingly, we find that Article 12(c) does not protect the Carrier's action in this case.

However, we also find that the Claimant had no seniority at the Wisconsin Rapids facility and, therefore, no relative claim to available work there. This finding is consistent with Rule 22, Section 1 of the Controlling Agreement:

"Seniority of employes in each craft (covered by this agreement) shall be confined to the point employed. The seniority lists will be open to inspection and a copy furnished committees. All men of a given craft working at a given point shall be on one seniority list."

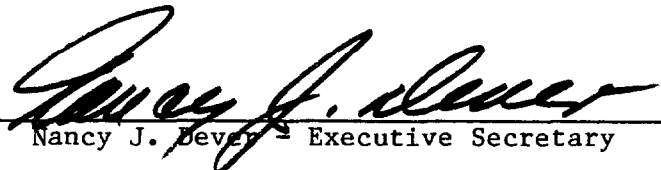
Therefore, we have no choice but to deny the Claim. It seeks compensation for Mr. Simons, an employee who has no contractual right to the work in question. We note that the Claimant had in the past performed vacation relief work at Wisconsin Rapids, but must conclude in view of Rule 22, Section 1 that the Carrier is under no contractual obligation to make such an assignment.

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 6th day of August 1986.