

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: (  
(Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. The Chicago and North Western Transportation Company failed to correct hazardous working conditions in Yard 9, at Proviso, Illinois. Claim has been made in behalf of Carman Daniel J. McLean, who was injured at Yard 9 as a result of those hazardous conditions.

2. That the Chicago and North Western Transportation Company be ordered to immediately apply granite screenings to the following tracks in Yard 9, Proviso, Illinois: Tracks #1 and #2 at Northend, #3 and #4 in the middle of yard, Tracks #4 and #5 at the north end, Tracks #7 and #8 at the south end, Tracks #8 and #9 at the middle of the yard, Tracks #9 and #10 at the middle of the yard, Tracks #12 and #13 the entire track, Tracks #13 and #14 the entire track, Tracks #16, #17 and #18 the entire track, Tracks #25 and 26 the north end, Tracks #26 and #27, the entire tracks, Tracks #28 and #29 north end and the entire west side of Track #29, in accordance with Rule 41.

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 matter before the Board arose after the Organization wrote the Carrier mainly asserting that the Carrier had allowed certain hazardous conditions to exist adjacent to the tracks at its Proviso, Illinois facility. The Organization, in pursuit of its Claims, relied upon its construction of Rule 40 of the parties' Agreement.

We have carefully examined the entire record and based on this review, we conclude that the Claims, as presented, are not covered by the Rules Agreement. We also conclude that they do not come under the Board's authority as established by the Railway Labor Act. (See Third Division Award No. 23041).

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
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Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1987.