Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 11376
SECOND DIVISION Docket No. 10634-T
2-B&O-CM-'87

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

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

Dispute: Claim of Employes:

1. That the Baltimore and Ohio Railroad Company violated the controlling Agreement, specifically Rule 144 1/2, when on the date of December 23, 1982, they allowed the train crew to perform Carmen's work of testing air brakes, coupling, inspecting and measuring length of piston travel, at Bay View Yard, Baltimore, Maryland, while Carmen were employed and on duty in the service of the Carrier.

2. That accordingly, Carrier be ordered to compensate Claimants E. Martin and N. Phillips, Baltimore, Maryland, for all monetary losses incurred account such violation: four (4) hours pay each claimant on the date of December 23, 1982, at the pro rata rate.

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.

As third party in interest, the United Transportation Union was advised of the pendency of this case, but chose not to file a Submission with the Division.

On December 23, 1982, the Western Maryland Stone Train picked up forty-six (46) cars at the Carrier's Bay View Yard and traveled to Gray's Yard. The Organization argues that the coupling of hoses, testing of brakes, and piston travel is reserved exclusively to the Carmen Craft and that the performance of such duties by the train crew was a violation of Rule 144 1/2 which reads in pertinent part:

"Coupling, Inspection and Testing

(a) In yards or terminals where carmen in the service of the Carrier operating or servicing the train are employed and are on duty in the departure yard, coach yard or passenger terminal from which trains depart, such inspecting and testing of air brakes and appurtenances on trains as is required by the Carrier in the departure yard, coach yard, or passenger terminal, and the related coupling of air, signal and steam hose incidental to such inspection, shall be performed by the carmen."

The Carrier insists its Bay View Yard and Gray's Yard are both located within its Baltimore Terminal. The Carrier contends that a review of Rule 144 1/2 discloses the disputed work has never been recognized to exclusively accrue to Carmen.

The language of Rule 144 1/2 is clear and unambiguous. The disputed work is reserved to Carmen when the following conditions are present:

1. Carmen in the employment of the Carrier are present on duty.

2. The train tested, inspected, or coupled is in a departure yard or terminal.

3. The train involved departs the departure yard or terminal.

The facts in this case are undisputed. The Carrier's Bay View and Gray's Yard are within the limits of its Baltimore Terminal. Second Division Award 10021 involves the same parties and an almost identical Claim involving hose couplings and an air brake test by a train crew and the subsequent movement from the Carrier's Bay View Yard to Gray's Yard. The Board, in Award 10021, stated in pertinent part:

"This was an intra-terminal movement between two classification yards within yard limits, not a departure yard from the terminal as contemplated by the rule. The term 'train' as used in items two and three of the criteria refers to trains ready for departure from the terminal for over-the-road movement beyond terminal yard limits, not to intra-terminal movements between classification yards."

The burden of proof lies with the Organization. Herein, the Organization has failed to establish by probative evidence that the three conditions of Rule 144 1/2 were present on December 23, 1982. The movement involved a cut of cars within the Carrier's Baltimore Terminal. We agree with the Carrier's contention that its designating certain points within the Baltimore Terminal as "yards" does not serve to alter the obvious fact the Baltimore Terminal is one unit.

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 4th day of November 1987.