

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was adopted.

(Brotherhood Railway Carmen of the United States
(and Canada

PARTIES TO DISPUTE: (

(Chicago and North Western Transportation Company

STATEMENT OF CLAIM:

1. Carmen Mark Wood, Ron Thomas, A. Shank, R. Rollins, D. Evans, J. Sharpe, Rich Rainey and T. Ligas were deprived of work and wages to which they were entitled when the Chicago and North Western Transportation Company violated Article V of the Agreement of September 25, 1964, as amended by Article VI of the December 4, 1975 Agreement, and Rules 14, 15, 30, 57, 58, 61 and 76 of the controlling Agreement when they improperly assigned train crews to perform carmen's work of coupling air hoses and making terminal air brake test, and assigning mechanic-in-charge to remove and replace coupler in A-end of Engine 1302 at Carrier's Short Line Departure Yard at Des Moines, Iowa on January 17, 25, 31, February 1, 6, 7 and 28 and March 2, 1986.

2. The Chicago and North Western Transportation Company further violated the time limit provision of the Agreement when the Assistant Vice President and Division Manager failed to make a response to the portion of the claim in favor of Carmen R. Rainey and T. Ligas for March 2, 1986.

3. That the Chicago and North Western Transportation Company be ordered to compensate the above named Carmen Claimants as follows:

Carman Mark Wood is entitled to be compensated in the amount of four (4) hours pay at the rate of \$13.21 per hour, amount to a total of \$52.84 for violation of January 17, 1986.

Carman Ron Thomas is entitled to be compensated in the amount of eight (8) hours pay at the rate of \$13.21 per hour, amounting to a total of \$105.58 for violations of January 25 and February 1, 1986.

Carman A. Shank is entitled to be compensated in the amount of four (4) hours pay at the rate of \$13.21 per hour, amounting to a total of \$52.84 for violation of January 31, 1986.

Carman R. Rollins is entitled to be compensated in the amount of eight (8) hours pay at the rate of \$13.21 per hour, amounting to a total of \$105.58 for violations of January 31 and February 28, 1986.

Carman D. Evans is entitled to be compensated in the amount of four (4) hours pay at the rate of \$13.21 per hour, amounting to a total of \$52.84 for violation of February 7, 1986.

Carman J. Sharpe is entitled to be compensated in the amount of four (4) hours pay at the rate of \$13.21 per hour, amounting to a total of \$52.84 for violation of February 6, 1986.

Carmen Rich Rainey and T. Ligas are each entitled to be compensated in the amount of four (4) hours pay at the rate of \$13.21 per hour, amounting to a total of \$52.84 each for violation of March 2, 1986.

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.

As Third Party in interest, the United Transportation Union was advised of the pendency of this dispute, but chose not to file a submission with the Division.

The Board is asked to rule on a number of Claims asserting that Carrier assigned Carmens work to train crews and a mechanic-in-charge. Specifically, train crews coupled air hoses and made terminal air brake tests and the mechanic-in-charge removed and replaced a coupler on the A-end of an Engine at Short Line Yard. Within this dispute is an additional time limit contention wherein the Organization claims that Carrier failed to timely respond to one of its Claims.

The procedural issue has been reviewed and we find that it was timely "denied in entirety" by letter of March 14, 1986. While the denial failed to name one of the eight Claimants and additionally failed to refer to the changed coupler, it specifically denied the violation that occurred on March 2, 1986. As such, this Board finds no time limits violation.

With regard to the merits, a review of the record as developed on property fails to find evidence of a probative nature to support the assertion of a Carrier violation. In the instant case, assertions that such work has historically been performed by Carmen does not meet the Organization's burden of proof. No evidence of record establishes that the work belongs to Carmen. Accepted as the standard are three criteria as follows:

1. Carmen in the employment of the Carrier are 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 Carrier stated on property that the work was "performed on cars that were in yard transfer." This Board has held that movement within the boundaries of a terminal from one yard to another does not meet the criteria of a departure train (Second Division Awards 11295, 10107, 10021, 9782, 11202). A review of the evidence submitted by the Organization does not overcome this deficiency in proof.

Therefore, fully reviewing all issues, assertions, Rules and evidence, the Board finds that it must deny the instant Claim for lack of proof.

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 20th day of January 1988.