

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11476
Docket No. 11319-T
88-2-86-2-154

The Second Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada

PARTIES TO DISPUTE: (

(Duluth, Missabe and Iron Range Railway Company

STATEMENT OF CLAIM:

1. That the Duluth, Missabe and Iron Range Railroad Company violated the terms of our current Agreement, in particular Rules 29 and 57.

2. That accordingly, the Duluth, Missabe and Iron Range Railroad Company be ordered to compensate Proctor, Minnesota Carman C. T. Leveille in the amount of four (4) hours pay for his rate and class at the straight time rate for August 15, 1985.

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 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 and did file a Response with the Division.

Claimant is employed as a carman by Carrier at its Proctor, Minnesota, facility. On August 15, 1985, a train returned to Proctor Yard after making a delivery, and the train crew removed the "rear-end device" from the last car. The Organization thereafter filed a claim on Claimant's behalf, challenging Carrier's use of the train crew to perform this work.

This Board has reviewed the evidence in this case, and we find that the Organization has not presented sufficient evidence to meet its burden of proof. The facts reveal that no craft has had the work involved exclusively reserved to them. Although carmen have performed the work and are capable of doing it, the Carrier has used other employees when the Carrier felt it was efficient to do so. As we have stated in the past, in cases of this kind, the Organization bears the burden of showing that its members have exclusively performed the work on a systemwide basis in the past. That has not been proven here and, therefore, the claim must be denied.

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 11th day of May 1988.