

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11661
Docket No. 11514-T
89-2-87-2-162

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
PARTIES TO DISPUTE: (
(Indiana Harbor Belt Railroad Company

STATEMENT OF CLAIM:

1. That the Indiana Harbor Belt Railroad violated the terms and conditions of the Agreement, specifically Rules 157 and 31, when they allowed Terminal Superintendent L. Cundary and two switchmen to perform wrecking work in rerailling car UPFE 454961 on September 16, 1986.

2. That the Indiana Harbor Belt Railroad Company be ordered to compensate Carmen D. Moll, T. Soria and T. King eight (8) hours' pay each at the time and one-half rate of pay for this violation of the Agreement.

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.

This Claim involves the same parties and Rules as that dealt with in our Award 11660. The facts of the alleged violation differ slightly though. In Award 11660 the rerailling was done with Maintenance of Way Employees. In this Claim the rerailling was done with switchmen. As in Award 11660 Third Party Notice was given to the United Transportation Union, however it declined to respond.

On this record it is clear that switchmen were used to rerail UPFE 454961. Carrier has indicated, without adequate rebuttal by the Organization, that these switchmen were members of the crew involved in the derailment. The use of the involved crew in a rerailling operation without additional assistance is a permitted exception under Rule 157(a). Accordingly, the Agreement was not violated.

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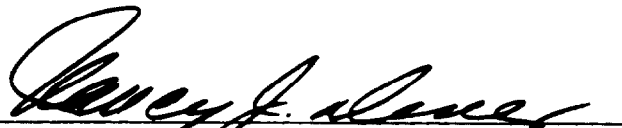
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 1st day of March 1989.