

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11703  
Docket No. 11529-T  
89-2-87-2-185

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen  
(  
(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. That the Norfolk and Western Railway Company violated Rules 30 and 110 of the current Agreement and Article V of the September 25, 1964 Agreement and Article VI of the December 4, 1975 Agreement, when trainmen, train crews were assigned to inspections, testing and making air hose couplings and engineers were assigned to make inspections and testing of pusher consists or units after being coupled in and made part of trains all inside of Elmore-Mullens Terminal during the period of June 15, 1986 through July 30, 1986.

2. That because of such violation the Norfolk and Western Railway Company be ordered to compensate Carmen R. M. Lawrence, R. G. Hall, C. W. McKinney, D. F. Jones, W. E. Ford, J. E. Miller, E. W. DeHart, J. A. Taylor, C. J. Bickford, A. F. Taylor, E. J. Clark, J. W. White and M. F. Mills, whose names are maintained on the extra or overtime board at Elmore, in the amount of 532 eight (8) hour days or shifts at the time and one-half rate to be equally divided among the claimants.

FINDINGS:

The Second Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee 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 and did not file a Submission with the Division.

Carrier asks that this Claim be dismissed because it involves identical facts and issues to those decided adversely to the Organization by Award 19 of Public Law Board No. 3900. We have carefully compared the material in this record with that available to us in Award 19 and conclude that any differences between the two are so insignificant as to be meaningless as to the facts and issues involved. Accordingly, it is our conclusion that the Claim before us is identical in all material facts to that involved in denial Award 19.

We do not find Award 19 to be in palpable error and its conclusion will be followed here. While we would not be hesitant to reach a different result were we to be convinced that the prior Award was wrong, precedent cannot be lightly regarded as it would endanger the prompt and orderly settlement of disputes on the property as contemplated by the Railway Labor Act. In this regard see Second Division Award 3991, wherein we stated:

"We are aware of the fact that prior Awards of this or any other Division of this Board are not binding upon us in the same sense that authoritative legal decisions are. Nevertheless, all Divisions of this Board have consistently held that, if a dispute involves the same controlling facts and the same contractual provisions as were submitted for adjudication in a previous dispute, the Award in the prior case will generally be followed, except when such Award is shown to be glaring erroneous or substantially unfair. \* \* \* The rationale underlying those rulings is that in the interest of stable and satisfactory labor relations identical rules must necessarily be given like interpretations. Otherwise, employees doing the same work and covered by the same labor agreement would not be afforded the benefit of equal treatment and equal protection under the law. Moreover, general adherence to previous rulings, except where deviation therefrom is warranted on the basis of the above indicated exceptions, signifies that our rulings are based on reason and intended to exclude further litigation. They are not merely random judgments indefinitely inviting further litigation."

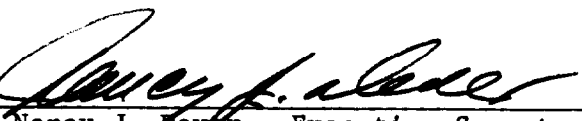
The Claim of the Organization will be dismissed.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 22nd day of March 1989.