

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11783
Docket No. 11599
89-2-88-2-83

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

PARTIES TO DISPUTE: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation (Amtrak))

STATEMENT OF CLAIM:

Amtrak hired outside contractors to perform inspection and repair to Amtrak equipment on the New York to Hyannis, MA train that was from July 3, 1986 to September 14, 1986, weekends only.

Settlement Requested: Eight (8) hours at time and one-half for twelve (12) days and eight (8) hours at double time for eleven (11) days, total \$3,846.40.

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.

The Organization alleges Carrier violation of the Agreement when it allowed employees of Cape Cod and Hyannis Railroad to service on their property Amtrak trains. The Claim of November 7, 1986, alleges Amtrak's contracting out of inspections and repairs without notification was a violation of the Agreement.

The case at bar includes both procedural and substantive issues. Central to our decision is the failure to find Agreement support for any violation. While Carrier raises numerous defenses, this Board finds that the only relevant issue is that of Rule support. Finding no Rule raised on the property to which evidence establishes that the Carrier is prohibited from the complained of action, this Claim is denied. All other procedural and substantive issues are thereby rendered moot. This is consistent with past Second Division Awards 10820, 8845, 8735 and 8734.

Form 1
Page 2

Award No. 11783
Docket No. 11599
89-2-88-2-83

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

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