

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/Division of TCU  
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(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

1. That the Atchison, Topeka and Santa Fe Railway Company violated the controlling Agreement, specifically Rules 9, 10, 36 and 98, by instructing and/or allowing Relief Foreman D. Benesh to perform the duties and work of the Carman Craft when members of the craft were available.

2. That accordingly, the Atchison, Topeka and Santa Fe Railway Company be ordered to additionally compensate Carman A. P. Moreno in the amount of four (4) hours at the applicable hourly rate of pay.

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.

As Third Party in Interest, the American Railway & Airway Supervisors Association were advised of the pendency of this dispute and did not file a Submission with the Division.

Carrier's principle defense against the Claim of the Organization that a Relief Foreman performed duties of the Carmen's Craft on October 10, 1987, is that its payroll records do not establish that the Relief Foreman was on duty at the time, thus, it is obvious that he could not have performed the disputed work. To counter this assertion the Organization has submitted three statements from individuals who Claim they observed the Relief Foreman doing the work.

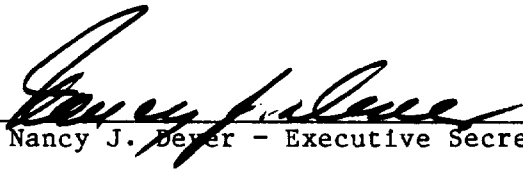
In this matter we will credit the evidence of the Organization and sustain the Claim because it is clear that unexplained variances exist in the payroll and timekeeping records submitted by Carrier. This causes Carrier's evidence to be suspect.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 28th day of November 1990.