

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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(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. That the Norfolk and Western Railway Company violated current agreements, Rule Nos. 35 and 131, as subsequently amended, Supplement No. 37, Rule 110 and 30 of the Virginian Agreement, merger agreement of June 18, 1959, when on September 9, 1988 they did by Bulletin Nos. 22 (88), 23 (88) and 24 (88) abolished Carman's Leadman R. M. Lawrence. After abolishing the position or job of R. M. Lawrence, they merely reassigned the position or job at a lower and/or reduced rate of pay and uses foremen or supervisors, C. J. Edwards, Sr. and W. B. Clemson, Sr., who are filling a carman's position on the shop track at Elmore, WV.

2. That the Norfolk and Western Railway Company be ordered, because of such violation, to readvertise carman leadman position to carmen by bulletin along with rate of pay provided and abolish Job #22 as viewed in Bulletin #24 (88) and readvertise same as previously assigned to carmen.

3. That the Norfolk and Western Railway Company be ordered to make whole and allowed time and/or pay at time and one-half carmen's rate of pay for each and every hour, day or shift in which supervisors have been used to perform carmen's work such time and/or pay be allowed retroactive to September 9, 1988 and for the duration of this continuing violation until it ceases to exist and/or this claim is settled. (As of date of initial claim, 26 days or shifts were involved.)

4. That such pay be allowed and divided equally among Carmen R. G. Hall, C. W. McKinney, D. F. Jones, W. E. Ford, J. E. Miller, E. W. Stewart, C. J. Bickford, A. F. Taylor and J. W. White whose names are maintained on the extra or overtime board at Elmore, WV.

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 American Railway and Airway Supervisors Association was advised of the pendency of this dispute and did not file a Submission with the Division.

This Claim contends that Rule 35 of the Agreement was violated when Carrier abolished the Leadman Carman assignment at Elmore, West Virginia, and thereafter had Leadman Carman work performed by Carmen. Following the abolishment, the remaining Car Shop work force consisted of a Supervisor and 4 Carmen (one of which was a vacation relief worker).

Rule 35 provides:

"LEAD WORKMAN
Rule No. 35

In small gangs a lead workman may be assigned, who in addition to performing regular work of his class will take the lead and will assign and direct the work of other members of the gang."

The Rule uses the word "may" which is permissive, not mandatory, thus the Agreement does not require that in every small gang a lead workman be assigned. Moreover, in this instance it has not been demonstrated that any Carman has been required to "take the lead" or "assign and direct the work of other members of the gang" so as to establish entitlements as a lead workman.

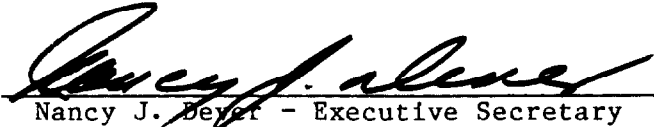
The Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1991.