

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/ Division of TCU
(
(CSX Transportation, Inc. (the Chesapeake and Ohio
(Railroad Company)

STATEMENT OF CLAIM:

1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter "carrier") violated the provisions of Rule 158 of the Shop Crafts Agreement between Transportation Communications International Union - Carmen's Division and the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carmen T. E. Sties (hereinafter "claimant") when on July 14, 1988 the carrier sent T. R. Fisher to rerail Hopper VEPX-87099.

2. That, accordingly, the claimant is entitled to be compensated for five (5) hours at the straight time rate and three (3) hours at the time and one-half rate for the carrier's violation of the aforementioned Agreement Rule.

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.

On July 14, 1988, the Carrier assigned two Carmen to proceed with a Hoesch truck to retrack a hopper car at a point 66 miles away. Both employees were certified as holding valid motor vehicle licenses. The Organization contends that the Claimant herein should have been sent in place of one of these employees who was junior to the Claimant.

Throughout the Claim handling procedure, the Carrier contended that the Claimant did not hold a valid motor vehicle license. At no point did the Claimant provide evidence to the contrary, despite the clear knowledge that this point was in contention when the Claim was under review.

The Board supports the Carrier's contention that it was appropriate to have the Hoesch truck accompanied by employees qualified to drive the equipment. There is no showing that the Claimant was qualified in this regard.

With this conclusion, other contentions as to which Rule is applicable and whether use of the Hoesch truck constituted wrecking service need not be reviewed.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois, this 1st day of April 1992.