

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12439
Docket No. 12137
92-2-90-2-286

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
(Southern Railway Company

STATEMENT OF CLAIM:

1. That the Southern Railway Company violated the terms and conditions of the controlling agreement on September 27, 1989 at Attalla, Alabama when they failed to call Carman J. O. James to a derailment at his home point. This is in violation of Rules 141 and 138 of the Agreement.

2. That accordingly, the Southern Railway Company now be ordered to provide the proper relief by compensating Carman J. O. James for seven (7) hours pay at the overtime rate in effect on September 27, 1989 for this violation.

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.

The Claimant is assigned as a Carmen at Attalla, Alabama, a "one-man" point. On September 27, 1989, a derailment occurred near Attalla. The Carrier dispatched two Carmen with equipment from Birmingham to rerail the locomotives and cars.

The Organization contends that the Claimant should have been called in view of his assignment at Attalla. During the claim handling procedure on the property, the Organization cited Rules 138 and 141. While defining the work at "one-man" points, these Rules do not address the question at point here. As argued by the Carrier, there is no showing that the Claimant enjoyed preference in derailment work to other Carmen in the area.

Form 1
Page 2

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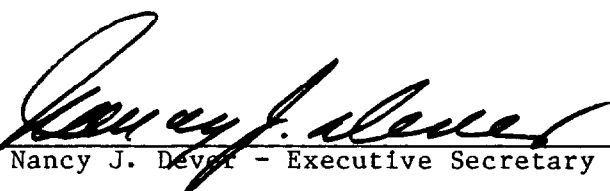
The Claim must fall for lack of clear Rule support.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1992.