

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

Award No. 12536

Docket No. 12436

93-2-91-2-250

The Second Division consisted of the regular members and in addition Referee Joseph A. Sickles when award was rendered.

(Brotherhood Railway Carmen Division
(Transportation Communications International
(Union

PARTIES TO DISPUTE:

(
(Southern Railway Company

STATEMENT OF CLAIM:

- "1. That the Southern Railroad Company and/or its Corporate Parent, the Norfolk Southern Corporation, violated the terms and conditions of the current Agreement when they posted a bulletin dated August 24, 1990 which abolished all derrick crew jobs at Sheffield, Alabama.
2. That accordingly, the Southern Railroad Company and/or its Parent, the Norfolk Southern Corporation, be ordered to rule this bulletin both null and void and that the members of the regular assigned wrecking crew, prior to the posting of this bulletin, be returned to their regular assigned jobs as members of the wrecking crew. These Carmen are J. B. Meadows, Operator; R. S. Martin, Groundman; G. D. Averill, Groundman; D. L. McCullough, Groundman; D. A. Witt, Groundman; J. W. Gargis, Extra Groundman; J. A. King, Extra Groundman. (Employees' Exhibit A, page 15)."

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 employe 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.

There is no dispute that on August 24, 1990, the Carrier posted a Special Bulletin at Sheffield, Alabama, stating:

"Due to Sheffield, Alabama no longer being a derrick based terminal, all derrick crew jobs are abolished effective immediately. The following people are affected by this Bulletin...."

As a result, the Claimants lost their secondary assignment as members of the Derrick or Wrecking Crew.

The Organization has cited a number of provisions of the rules agreement which deal with wrecking crews and contain certain substantive rights accruing to those employees in the event of wrecks, derailments, etc. It argues that in order for certain usage to be accomplished, the Carrier must have established crews. Stated differently, the Claimants insist that:

"...the Carrier has not ceased to have wrecks or derailments; they have just changed the method of rerailing the wrecked cars."

The Carrier denies a violation, noting that pertinent rules permit the Carrier to abolish positions by bulletin, which it did on August 24, 1990 after derrick cars were retired June 14, 1990 and the derrick was sent to scrap on July 1, 1990.

In rendering our Award in this case, we have limited our consideration to the precise issue presented to us, i.e. may the Carrier, under the agreement, eliminate the wrecking crew, when it has eliminated the various equipment. We have not contemplated any broader questions of use of outside sources, etc. under circumstances not now before us.

The parties have submitted a number of Awards for our consideration, and they have urged that they are pertinent to our consideration of this dispute. But we feel that two Awards are dispositive.

The Organization cites Second Division Award 7926, issued on May 16, 1979. The Award concluded that:

"...the mere removal of the derrick from Washington, Indiana in the instant case, did not simultaneously cause the elimination of the wrecking crew positions."

That conclusion responded to the Car Department Manager's alleged statement that "...since there was no wrecking 'outfit'...there was therefore no assigned wrecking crew." In short, the bulletined positions had never been abolished.

Second Division Award 11631 is more responsive to the precise issue presented here. It noted:

"...that Wrecking Crew assignments are subject to the bulletin and abolishment provisions of the Parties' Agreement. The Carrier, on the property, stated that it no longer had a need for a Wrecking Crew at...

In the view of all of the preceding and because past Awards have held that the positions in question are subject to the normal bulletining and abolishment procedures, we must deny the claim." (Emphasis supplied)

In fact, Second Division Award 7926, relied upon by the Organization, specifically stated:

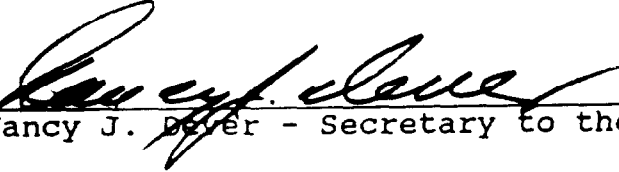
"Abolition of said assignments could have been accomplished by complying with...National Agreement."

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Secretary to the Board

Dated at Chicago, Illinois, this 12th day of May 1993.