NATIONAL RAILROAD ADJUSTMENT BOARD
Form 1 SECOND DIVISION Award No. 12552
Docket No. 12343-T
93-2-91-2-138

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 TCU
(
(CSX Transportation, Inc. (former Baltimore
(and Ohio Railroad Company)

STATEMENT OF CLAIM:

"1. That the Carrier violated Rules 138 and 144½ of the controlling Agreement, as amended, whenever they transferred the duties of inspection of rolling stock, the placement/removal of end-of-train devices and the initial terminal air brake tests to members of the United Transportation Union at Consolidated Coal Company.

2. That the Carrier be ordered to pay the following Carmen Claimants the following amounts account violation of Rules 138 and 144½:

Claimant	No. of Hours at Carmen Rate of Pay
Robbie Jones	16
Carl Lowery	8
Wayne Canapp	8
Robert Wotring	8
John Schwemmer	8
A. M. Jourdain	8
R. A. Smith	8
Coleman Moore	8
David Jaffa	8
John Pawlowski	8
V. Toni	8
Robert Selsor	8
William Hicks	8"

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.

As Third Party in Interest, the United Transportation Union was advised of the pendency of this dispute, but chose not to file a submission with the Board.

The individual claims concern Carrier's discontinuance of the practice of dispatching Carmen assigned at its Bay View Yard, Baltimore, Maryland, to the Consolidated Coal Sales Company unloading facility to inspect equipment, handle EOT devices and perform set and release brake tests when the empty equipment is being returned to service for a westward movement to the mines. Train crews are now doing the work, which occurs on private property. The Organization contends that under the provisions for Rule 144 1/2 it is entitled to continue performance of the work "as a matter of past practice." Rule 144 1/2 provides that in yards or terminals where Carmen in the service of the Carrier are on duty, required inspecting and testing of brakes will be performed by members of that craft.

Carrier denied the claims on a variety of grounds. First, it maintains that the Consolidated Coal Sales Company unloading facility is a private operation and cannot be considered as a "departure yard" as contemplated by the Agreement. Second, it argues that the Organization has never established that any Carman was ever assigned to a regular position on Consolidated Coal Sales property. Third, it contends that the work now being done by train crews is nothing other than the application of an EOT device and making set/release air brake tests in connection with their own trains.

The cardinal issue involved is not new to this Board - can Carmen claim work performed on privately owned trackage? In Second Division Award 10959, involving the same parties, the Board concluded that Rule 144 1/2 was not violated when air hose couplings and air brake testing was performed by Trainmen on trackage owned by Jones & Laughlin Steel Company. This conclusion is not erroneous and is supported by the language of the Rule and numerous Awards of this Board. Accordingly, the instant claim must be denied.

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 28th day of July 1993.