

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12597
Docket No. 12464-T
93-2-91-2-286

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 Louisville
(and Nashville Railroad Company)

STATEMENT OF CLAIM:

- "1. That the Louisville & Nashville Railroad Company (hereinafter referred to as the Carrier) violated the provisions of Article V of the September 25, 1964 Agreement, as amended by Article VI of the December 4, 1975 and November 19, 1986 National Agreements, by changing their operations to the extent that some trains which had previously been inspected and tested at Carrier's Choctaw Yard in Mobile, Alabama by Carrier's Carmen at Mobile, Alabama, were directed by Carrier to go directly through Choctaw Yard to the Terminal Railway Alabama State Docks (hereinafter referred to as TRASD McDuffie Yard, Mobile, Alabama, where they are unloaded and are then recoupled. The cars in these trains were formerly (prior to April 1987) pulled back to Carrier's Choctaw Yard and made up into trains there where Carrier's Carmen performed the work of coupling, testing and inspecting the air brakes, as well as a mechanical inspection and making necessary minor repairs.
2. Then in April 1987 the Carrier commenced to make the trains up at the TRASD McDuffie Yard and assigned Carrier's Train Crews to couple the air hoses, inspect and test the air brakes.
3. That Carrier should be ordered to return this work to their Carmen and allow them to perform the above described work on all trains which, prior to April 1987, were made up in and departed from Carrier's Choctaw Yard."

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 did not file a Submission with the Board.

In addition to defending against the claim of the Organization on its merits, Carrier makes two procedural defenses. First it argues that the Organization's Statement of Claim, pure and simple, makes it abundantly clear that the Carmen's Organization is seeking injunctive relief. There is no mention of any monetary relief on behalf of an identifiable Claimant. The Claim seeks an order from the Board to return work transferred from its Choctaw Yards to the Terminal Railroad on April 1, 1987. The Board agrees with Carrier that this is beyond our scope. See Second Division Awards 10708, 10955 and 11355.

Secondly, Carrier argues that the claim was untimely filed. The transfer from Choctaw Yards occurred in April 1987. Claim was not filed until December 1990, well after sixty days of the date of occurrence stipulated in the Time Limits on Claims Rule. This claim is not a continuing claim because it is predicated upon a single event, the transfer of work. See Third Division Awards 28848, 27327 and 26328.

For the above two reasons, the claim must be dismissed without consideration of its merits.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 13th day of October 1993.