

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12609
Docket No. 12371-T
93-2-91-2-164

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 Chesapeake &
(Ohio Railway Company)

STATEMENT OF CLAIMS:

- "1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter carrier) violated the provisions of Rules 157 and 158 of the Shop Crafts Agreement between Transportation Communications International Union -- Carmen's Division and the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carmen H. Vallance and R. Harbolt (hereinafter "claimants") when the carrier allowed persons other than Carmen to perform Carmen's work.
2. That, accordingly, the claimants are entitled to be compensated for two (2) hours and forty (40) minutes each at the Carman's time and one-half rate for said 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 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 International Brotherhood of Firemen and Oilers was advised of the pendency of this dispute, and filed a Submission with the Board.

This Claim involves the Organization's allegation that its Agreement was violated, when on May 3, 1989, two employees not assigned within the Carmen's craft rerailed a car at the Fitzpatrick westbound manifest hump yard. Many Awards of this Board have concluded that it is not a violation of the Carmen's Agreement when strangers to the craft are utilized in simple rerailing operations occurring within yard limits. See for example, Second Division Award 10258, wherein the Board denied a similar claim, stating:

"The facts of the record in this case indicate that a wrecking crew was not called because the routine nature of the derailment did not require the assistance of a wrecking crew. Thus, this Board concludes that the work in question does not belong exclusively to Carmen. The prevailing practice on this property is in harmony with our decision as indicated by the record. It is common practice in routine situations such as is present in this case to have various Crafts perform the work. See Second Division Awards 3257, 3265, 3859, 4337, 5812, and 6361 among others."

The Organization has not demonstrated that the foregoing conclusion is erroneous, or that the practice described is different. The Claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

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

Dated at Chicago, Illinois, this 17th day of November 1993.