

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12769
Docket No. 12599
94-2-92-2-151

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Railway Carmen
(Division TCIU
(
(Norfolk Southern Railway Company

STATEMENT OF CLAIM:

"1. That the Norfolk Southern Railroad Company and/or its Corporate Parent the Norfolk Southern Corporation violated the terms and conditions of the current agreement on January 6, 1992 when Engineer Siltz on Engine No. 75 and Switch Foreman T. T. Deitsch, on Job KL-07, were instructed by Car Foreman R. L. Hieatt to inspect, couple the air hoses, and give an initial terminal air brake test to an eleven (11) car train going to the PAL Railroad from the L. S. Junction.

2. That accordingly, the Norfolk Southern Railroad Company and/or its Parent, the Norfolk Southern Corporation, not be ordered to provide the following relief to Carman K. C., Tipton: Pay for a five (5) hour call at the pro rata rate of pay."

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 employee 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 Organization claims that Carrier utilized a switch crew to couple air hoses and give an initial terminal air brake test on eleven cars being delivered to a connecting carrier, at Louisville, KY. The total length of the move from the location where the work was alleged to have been done to the location of the connecting carrier is less than 3000 feet. For the Organization to prevail it is necessary that it demonstrate that several elements are present, among them that Carman were employed and on duty in a departure yard at the time of the occurrence. The Organization has not demonstrated that Carmen were employed and on duty in Carrier's Yard. Accordingly, a key element of its claim is missing. The Board has no alternative but to dismiss the claim on this basis.

AWARD

Claim dismissed.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 17th day of November 1994.