

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12865
Docket No. 12587-T
95-2-92-2-108

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

(Brotherhood of Railway Carmen
((Division of TCU)
PARTIES TO DISPUTE: (
(The Central of Vermont Railway, Inc.

STATEMENT OF CLAIM:

- "1. That the Central of Vermont Railway, Inc., violated the terms of the current Agreement when it unjustly assigned other than Carmen to make initial terminal air tests on trains leaving Carrier Yards in St. Albans, Vermont.
2. That accordingly, the Central of Vermont Railway, Inc., be ordered to compensate Carmen . E. Taylor, A. Bessette, J. Kittell, R. Cross, and T. Bushey, each a total of 18 hours forty (40) minutes at straight time 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 UTU, as Third Party, was advised of the pendency of this dispute, but chose not to file a submission.

The claim the Organization brings before this Board is that Carrier violated the Carmen's Agreement on various dates in May and June 1991, when train crews inspected, coupled and tested air on cars in Train 447 "that were outside a block." Carrier has stated, without challenge by the Organization that in each instance of alleged violation "the cars that were outside the block were freight cars being picked up in route." Further, Carrier contends, without challenge from the Organization, that the work in dispute has "been historically done by train crews for many years."

Carrier notes that it employs only five Carmen and they are assigned to work between 4:00 am and 8:00 pm. The work performed by the Crew of Train 447 was performed at times when none of the five Carmen were on duty.

The Board notes that the Organization stated in its submission that it "takes no exception to Train Crews performing work when picking them up in route to and from St. Albans, but we do disagree with Carrier, when they try to justify assigning such work to Train Crews when in a departure yard, where Carmen are employed."

There is no evidence in this record to support a conclusion that the Crew of Train 447 performed the work of inspecting, coupling and testing air on cars it was picking up in a departure yard where Carmen were employed. Accordingly the claim must be denied.

AWARD

Claim denied.

ORDER

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 April 1995.