

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13102

Docket No. 12905

97-2-94-2-56

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

**(Brotherhood of Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE:(
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway)

STATEMENT OF CLAIM:

"Claim of the Committee of the Union that:

- 1. That the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter 'Carrier') violated Rule 27, 31, 180, 183 and 185 of the Shop Crafts Agreement between Transportation Communications International Union -- Carmen's Division and the Chesapeake and Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969), when the Carrier denied Carman W.W. Enoch, T.W. Hendrick, and L.W. Justice (herein 'claimants') contractual rights to employment June 7, 8, 9; August 17, 24, 26, 27, 31 and September 3, 1993.**
- 2. Accordingly, the Carrier be instructed to pay claimants W. W. Enoch and T.W. Hendricks eight (8) hours at the applicable carman's rate for each of the nine (9) dates, June 7, 8, 9; August 17, 24, 26, 27, 31 and September 3, 1993 and carman L.W. Justice eight (8) hours at the applicable carmen's rate for August 26, 1993 that the carrier denied the opportunity to employment to the claimants when the carrier violated the above-cited agreement rules at Elkrun Junction, West Virginia."**

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 were given due notice of hearing thereon.

In 1986, all Carmen positions at Elk Run Junction, West Virginia, were eliminated due to insufficient work. All Carmen at this location were furloughed. On June 7, 8, 9; August 17, 24, 26, 27, 31; and September 3, 1993, Carmen from South Charleston, West Virginia, were sent to Elk Run Junction to inspect and repair freight cars which had FRA and safety appliance defects. Elk Run Junction and South Charleston are separate seniority points for Carmen.

The Organization filed claims on behalf of the three senior furloughed Carmen at Elk Run Junction claiming that they should have been recalled to active service to inspect and repair these cars rather than having Carmen from another seniority point perform these tasks.

The Carrier convinced the Board that there was insufficient work at Elk Run Junction to warrant recalling Carmen from furlough to inspect and repair freight cars on the days in question. The Carrier maintains that on each of the nine dates at issue in this dispute less than four hours of work was performed by Carmen from South Charleston, West Virginia. This was irregular car inspection and repair work performed on nine days over a span of approximately one month. Such intermittent work did not justify recalling Carmen from furlough, in the judgment of the Board.

The Organization argues that three Second Division Awards support its claim that Carmen on furlough at Elk Run Junction should have been recalled to perform the work assigned to Carmen from another seniority point. However, we find those cases

clearly distinguishable from the claim now before us. In Second Division Award 4703, the work performed by Carmen from Danville, Kentucky, was far more extensive than the sporadic inspection and repair work performed by the Carmen from South Charleston, West Virginia. And the Carmen in Award 4703 applied wheels to four cars which was more time consuming than the irregular inspection and repair work involved in this dispute.

The work performed by Carmen in Second Division Award 4738 consumed 14 continuous days and over 500 hours to complete. However, the work performed by Carmen in this dispute consumed no more than 36 hours over nine days. And in Second Division Award 5703, there were no furloughed Carmen involved. Rather, that claim involved Carmen who were on duty at Fitchburg who should have been used to make repairs to a wreck at Fitchburg rather than Carmen from Bilerica which was a different seniority point. That case is readily distinguishable from the dispute before this Board.

Because there was not sufficient Carmen work at Elk Run Junction to warrant recalling three Carmen from furlough the Carrier had the right to use Carmen from another seniority point to make random car inspections and repairs there. The claim is therefore 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 7th day of March 1997.