

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13305
Docket No. 13108
98-2-96-2-2**

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
**(CSX Transportation, Inc. (former Louisville and
(Nashville Railroad Company)**

STATEMENT OF CLAIM:

- "1. That the Louisville and Nashville Railroad Company, (now a part of CSX Transportation) was in violation of G. E. McCutchen and A. Leatherwood's contractual rights to perform all Carmen's work of inspecting freight cars at Pensacola, FL. per Rule 29 and 104 of the controlling agreement, when Carrier instructed and/or allowed outsiders to this property from Baltimore (Curtis Bay) MD and Detroit, MI to perform such work at Pensacola, FL on May 1 and 2, 1991.**
- 2. Carrier should now be ordered to compensate claimants eight (8) hours each at time and one-half 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 were given due notice of hearing thereon.

The claim at issue here was filed under date of May 15, 1991. It contends that the Carrier improperly used two Carmen assigned to Baltimore and Detroit, respectively, to perform car inspections at the Carrier's Pensacola, Florida, facility on May 1 and 2, 1991.

The Organization contends that because seniority is confined to the point at which each Carman is employed, all work at a given point belongs to the Carmen on the seniority roster at that point. Therefore, it asserts that the Claimants had the contractual rights to perform the inspection work, not the two Carmen from the other seniority districts noted above.

The Board carefully reviewed the record developed in this matter. On the basis of this review, we find a major conflict with respect to the facts at issue, which apparently caused the parties problems. These problems have been made worse because of the time it has taken to process the claim (almost seven years). The Board finds that the Local Chairman did not present any on-property substantive evidence of what work was actually performed. Consequently, the Organization has not met its burden of proof.

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 6th day of August 1998.