

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13365
Docket No. 13290
99-2-97-2-61**

The Second Division consisted of the regular members and in addition Referee Robert L. Hicks when award was rendered.

**(Brotherhood Railway Carmen, Division of
(Transportation Communications International Union
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. That the Maine Central Railway Company (Division of Springfield Terminal Railway Company) violated the terms of the implementing agreement when they failed to allow Carman Daniel Thompson the right to retain his seniority on the Maine Central seniority roster which he held seniority and as allowed by the provisions set forth in the implementing agreement between the Maine Central Railroad, the Delaware and Hudson Railway and the Brotherhood of Railway Carmen.**
- 2. That, accordingly, the Springfield Terminal Railway Company be required to allow Carman Daniel Thompson his right to seniority on the Maine Central carman seniority roster, the same roster he held seniority at the time of the transfer. Furthermore, any wage loss, other compensation or benefit that has accrued as a result of the carrier's improper actions.”**

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.

Item 1 of the Statement of Claim alleges a violation of the "implementing agreement between the Maine Central Railroad, the Delaware and Hudson Railway and the Brotherhood. . . ."

The implementing agreement referred to in the aforequoted excerpt from Item 1 of the Statement of Claim came about through the arbitration provision of Section 4, Article I of the New York Dock Protective Provisions.

In other words, its genesis is due to the New York Dock Protective Conditions, and thus, any alleged violation thereof flows from the provisions of the New York Dock Protective Agreement which contains machinery to resolve any and all disputes.

In Third Division Award 31680, involving this Carrier and an Arbitration Award implementing merging of facilities and employees that came to be through the Mendicino Protective Conditions, the Board cautioned any future grievants that:

"... if their claim is for a violation of the Mendicino Protective Conditions or its Implementing Agreement, this Board is not the proper forum to hear such cases. . . ."

The Mendicino Protective Conditions and the New York Dock Protection Conditions contain identically worded dispute resolution clauses. Under these circumstances, the Board finds it is without authority to adjudicate this dispute on its merits.

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AWARD

Claim dismissed.

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 23rd day of February 1999.