

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13380

Docket No. 13267

99-2-97-2-37

The Second Division consisted of the regular members and in addition Referee Elizabeth C. Wesman 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 Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rule 29.2 when they arbitrarily ordered Carman Harold Huard to perform overtime service rerailing two (2) freight cars at Jay, ME.**
- 2. That, accordingly, the carrier be ordered to cease and desist from blatantly disregarding the clear rules set forth in the collective agreement. Furthermore, as the carrier insists on continually violating this agreement, we request one (1) days pay for the claimant at the applicable rate.”**

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 Carrier has raised a procedural objection in this case, which must be addressed before the Board may proceed to the merits of the claim in question. Specifically, the Carrier maintains that: 1) the claim presented to the Board is substantively changed from the original claim progressed on the property; and 2) the claim seeks injunctive and prospective relief – a matter which is beyond the jurisdiction of the Board. The Carrier contends that throughout the handling on the property the parties continued to address the grievance in terms of the hypothetical, of what might happen in the future, and the Organization may not now change the wording of the claim in the hopes of presenting a more viable grievance to the Board.

The Board has reviewed the record and considered the Carrier's procedural objection. The claim as presented to the Board is significantly different from the claim progressed on the property. Furthermore, the Carrier is correct that the Board has no jurisdiction to grant injunctive relief prospectively for events which have not yet occurred. In light of the foregoing, the Board has no alternative but to dismiss the claim in its entirety.

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 12th day of April 1999.