

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

Award No. 13454

Docket No. 13371

99-2-98-2-58

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

(Brotherhood Railway Carmen, Division of Transportation  
( Communications International Union

**PARTIES TO DISPUTE:** (

(Union Pacific Fruit Express Company

**STATEMENT OF CLAIM:**

“1. Union Pacific Fruit Express Company was in violation of Rule 9, Rule 11, Rule 15, Rule 40 and Appendix 6, Section I and Section III.

2. The Company violated the Agreement July 1997 when it assigned Mechanical Refrigeration Repairmen to perform the duties of welders and other duties in the subdivision of Carmen classification.

3. Stop forcing Carmen who are CMR qualified to CMR positions and to recognize that it is necessary to train a sufficient number of employees for Mechanical Refrigeration Repairmen work.

4. Compensate all employees' losses accrued by these violations of the Agreement.”

**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.

A claim was filed on July 29, 1997 by the Local Chairman of the Organization alleging that the Carrier violated various Rules of the Agreement including, but not limited to Rules 9, 11, 15, and 40. The claim was denied by the Director of Operations and it was, thereafter appealed on property up to and including the highest Carrier officer designated to hear such. Absent settlement of the claim on property it was docketed before the Second Division for final adjudication.

A review of the record on this case warrants the conclusion that the claim lacks supporting evidence with respect to when the alleged actions took place, where they occurred, and what employees were harmed by the alleged improper assignment of work by the Carrier. This and other Divisions of the National Railroad Adjustment Board have ruled that in the event of the lack of such specificity cases brought before it will be dismissed. See First Division Award 24039; Second Division Award 12452; Third Division Awards 28492, 28285, 23859. As moving party the Organization has failed to sufficiently bear its burden of proof in the instant case.

**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 25th day of August 1999.