

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13470

Docket No. 13269

99-2-97-2-39

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: (

(CSX Transportation, Inc. (former Louisville & Nashville
(Railroad Company)

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Louisville and Nashville Railroad Company, (now a part of CSX Transportation and hereinafter referred to as Carrier) violated the controlling Agreement, in particular but not limited to Rules 29, 30, 104, and letter Agreement dated November 11, 1976, rights of Chattanooga, TN (L&N) Carmen T. E. Kean on March 2, 1996; H. E. Fowler on March 5, 1996; and J. M. Ridge on March 18 and 22, 1996, (hereinafter referred to as Claimants), when Carrier instructed and/or allowed outsiders to this property, Atlanta, GA Seaboard Coastline Railroad (SCL) Carmen to perform carman's work of mechanical inspections and repairs on freight cars JTTX 912070, JTTX 250059 AND TTPX 80263 on March 2, 1996; TTPX 80008, TTPX 81087 and TTPX 80274 on March 5, 1996; TTPX 80057, TTPX 80269 and JTTX 930103 on March 18, 1996; and JTTX 911617 on March 22, 1996 at Georgia Tubular on L&N property north of Cartersville, GA.
2. Carrier should now be ordered to compensate Claimants eight (8) hours each at overtime rate of pay for each date account of violation of Claimants' contractual rights to work performed on March 2, 5, 18, and 22, 1996 by outsiders to this property.”

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.

This is a companion case to Second Division Award 13469. As in that case, there is no dispute over the essential facts of the incident precipitating the above claim. On March 2, 5, 18, and 22, 1996, Claimants were regularly employed as Carmen on Carrier's former Louisville and Nashville Railroad Company (L&N) property at Chattanooga, Tennessee under the provisions of the September 1, 1943 controlling Agreement between the L&N and its employees represented by the Brotherhood Railway Carmen. On March 28, and April 2, 1996, the Local Chairman filed the claims summarized in the above "Statement of Claim." Carrier denied the claims on April 9, 1996 and asserted that Georgia Tubular is "located in the Cartersville area and is a part of the Cartersville switching district," and was, therefore, rightfully work belonging to SCL employees.

As in Second Division Award 13469, the November 11, 1976, Letter Agreement contains the language around which this dispute revolves. That letter reads in pertinent part as follows:

" . . . In connection with the agreement executed this date covering coordination of SCL, L&N, and AJT mechanical forces at Atlanta, it is agreed that Section 1 (c) of that agreement, reading:

'(c) The SCL working agreements (effective January 1, 1968, and as subsequently amended) shall apply to all mechanical

work performed by L&N and AJT employees, including line of road work on all properties.'

is interpreted to mean:

The carman position at Cartersville and the incumbent shall be placed under the SCL Agreements. The employee assigned thereto will continue to perform the same duties as previously performed prior to the coordination. If mechanical forces are needed north of Cartersville, L&N forces will be used. If mechanical forces are needed at Cartersville or south thereof, SCL forces may be used."

As in the prior case, there is insufficient evidence on this record to establish a clear line of demarcation with which the Board may determine what constitutes "Cartersville" and what constitutes territory "north of Cartersville." The Organization offered several statements by former L&N employees to buttress its position. It also offered a 1997 letter by the former Local Chairman on the L&N, in which he asserts that "the yard limit has always been the boundary of Cartersville," and, therefore, "an SCL employee can not be sent farther North than the North yard limit of Cartersville, GA, without a violation of the agreement occurring." Yet, neither the employee letters nor the letter from the former Local Chairman provide sufficient evidence to counter the Carrier's assertions that Georgia Tubular is within the Cartersville switching district and, therefore, is properly the province of former SCL Carmen.

In Second Division Award 13469 we held as follows:

"The language contained in the November 11, 1976 Letter Agreement gives neither actual geographic boundaries (township, village, etc.), nor Mile Post designations to use as a guide in delineating 'north of Cartersville' versus 'Cartersville and south of Cartersville.' The language as it stands supports neither Party's interpretation. Accordingly, because the Organization has not offered a preponderance of the evidence in this case, its claim must fail. However, the Board exhorts the Parties to negotiate a clear definition of the applicable boundaries to be used in cases of this nature. This is a dispute that is far better left to resolution at the bargaining table than to the determination of the Board."

We renew our exhortation and urge the Parties to negotiate a clearer definition of the applicable boundaries.

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 5th day of October 1999.