

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13526

Docket No. 13404

00-2-98-2-76

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

**(Brotherhood Railway Carmen, Division
(Transportation Communications International Union**
PARTIES TO DISPUTE: (
(Burlington Northern Santa Fe Railway Company

STATEMENT OF CLAIM:

“That the Burlington Northern Santa Fe Railroad Company, violated the terms of Rule 13 of the current Agreement and long established past practice at Northtown, Minneapolis, Minnesota. When they arbitrarily removed the claimants from their Hump Tower/Outbound positions.

That, accordingly, the Burlington Northern Santa Fe Railroad Company, be ordered to return Minneapolis, Minnesota, Northtown Carmen, mark Benkofske and Tom Christenson to their Hump Tower/Outbound positions.

The carriers file # in this dispute is, CAA 97-08-25AA.”

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.

From the outset, Item 2 is a request for injunctive relief, an act beyond the jurisdiction of this Board. If the claim is sustained, how the Carrier reacts is beyond the control of this Board. Item 2 is therefore dismissed.

Regarding Item 1 and the Organization's arguments, it is this Board's position that the claim is without merit.

The requirement for bulletins pursuant to the Agreement has been fulfilled by the Carrier. They list the headquarters, the assigned hours, the assigned rest days, etc.

In this dispute, the headquarters is listed as Northtown Yards which, apparently, has never been challenged by the Organization. The Northtown Yards handle inbound and outbound trains with the starting point for those working the outbound trains being approximately one mile from the starting point for those working the inbound trains.

For whatever reason, the Foreman directed both Claimants to work the outbound trains, removing them from the inbound service. This, according to the Organization, violated a long-standing custom of selecting which service each Carman preferred, but only with the concurrence of the Foreman.

In this instance, the Foreman did not concur, but this non-concurrence was not in violation of the Bulletin Rule. The Claimants still were working the same hours of the job they bid on, enjoying the rest days of that job, all of which was accomplished at the headquarters point, all correctly stated in the bulletin.

The Carrier has not violated Rule 13 by assigning Carmen's work in the manner described in this dispute. A long-standing practice does not change the language of the Agreement Rules. Only negotiation can accomplish that.

AWARD

Claim denied.

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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 27th day of July, 2000.