

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13558

Docket No. 13434

00-2-99-2-32

The Second Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

(International Association of Machinists and
(Aerospace Workers

PARTIES TO DISPUTE: (

(Kansas City Southern Railway Company

STATEMENT OF CLAIM:

“That the Kansas City Southern Railway Company (hereafter referred to as the “Carrier”) violated Rules 6, 8, 24, and 44 of the Controlling Agreement, effective April 1, 1980, as amended, between the Kansas City Southern Railway Company and its Employees represented by the International Association of Machinists and Aerospace Workers (hereinafter referred to as the “Organization”) when it wrongfully assigned Texas-Mexican Railroad Machinist Helper Juan Gonzalez to effect Machinist repairs to Kansas City Southern Railway Company locomotives at Shreveport, Louisiana.

Accordingly, we request that for this violation, the hereinafter listed Claimants be compensated for the 16 days Juan Gonzalez improperly worked for 12 hours per day on the property of the KCS performing machinist duties, equaling a total of 192 hours, at their pro rata rate of \$17.09 per hour for a total of \$3,281.28. This amount is to be equally divided among the 42 Claimants, providing \$78.13 to each.

The forty-two Claimants are:

D. T. McCoy
D. B. Turner
R. G. Cobb
L. T. Hollingsworth
J. L. McDonald
W. R. Ebarb

J. Caldwell
C. J. Brown
L. D. Reynolds
R. L. Logan
J. L. Walker
K. A. Holley

W. L. Laird
L. W. Reynolds Jr.
T. N. Beach
R. C. Deaver
G. L. Hatfield
A. Hall Jr.

R. Grigsby	E. C. Ogden	W. H. Treadway
J. K. Merrit	J. F. Zawodnik	E. G. Abner
P. G. Tucker	S. R. May	W. J. Johnson
H. L. Jacobs	R. J. Bernard	F. R. Peters Jr.
B. R. Wright	D. J. Bannan Jr.	R. H. Chiartano
D. W. Bozeman	L. J. Player	J. D. Watson
W. T. Sirman	H. Mims Jr.	E. R. Davidson
J. W. Sullivan Jr.	R. S. Elwood	M. P. Edwards

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 instant claim alleges that the Carrier used an employee of another Carrier to perform Machinists work. During handling on the property, the Carrier denied the allegations, stated that the employee of the other Carrier was on the Carrier's property only to receive training, and asked the Organization "to prove what machinist work was allegedly performed." During handling on the property, the Organization did not specify what machinist work it was claiming was performed by the employee of the other Carrier and offered no evidence that the employee of the other Carrier performed any machinist work during the time he was on the property.

The Organization's Notice on Intent was dated March 26, 1999. It was received and docketed by the Board on April 1, 1999. By letter dated April 26, 1999, the Organization alleged that the employee of the other Carrier worked for about ten days, exchanging assemblies, replacing turbo chargers, and working on SD-40 overhaul. The

Organization attached to its letter a statement purporting to be from one of the Claimants to that effect.

The case was docketed with the Board on April 1, 1999. At that point, the record on the property was closed. We are empowered only to consider the record developed on the property. The April 26, 1999, letter and attached statement is outside the record developed on the property and we may not consider it. Our review of the record developed on the property finds no evidence of any specific machinist work performed by the employee of the other Carrier while he was on the Carrier's property. Accordingly, the claim must be denied.

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 27th day of October, 2000.