

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 27762
Docket No. MW-26965
89-3-86-3-189

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

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Soo Line Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it assigned a Car Department employe to paint shower stalls in the Shop Building at North Fond du Lac, Wisconsin on November 17 and December 15 and 22, 1984 [System File 1 45(c,e) 47/800-46-B-195].

(2) As a consequence of the aforesaid violation, Messrs. A. D. Ploof, R. L. Krause, B. C. Tautges, L. P. Sackman, M. C. Stevens and R. A. Pucker shall each be allowed pay at their respective time and one-half rates for an equal proportionate share of the nine (9) man-hours expended by a Car Department employe in performing the work referred to in Part (1) hereof."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employees 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 waived right of appearance at hearing thereon.

As Third Party in Interest, the Brotherhood Railway Carmen of the United States and Canada was advised of the pendency of this dispute, and filed a Submission with the Division.

A Claim was filed by the Organization on behalf of B&B Crew 602, stating that Carmen had been used to do repair work and painting in the shower area in the "A" Shop at the Carrier's North Fond du Lac, Wisconsin, facility in violation of Rules of its Agreement. The Claim was denied in the normal manner prior to its docketing before the Board.

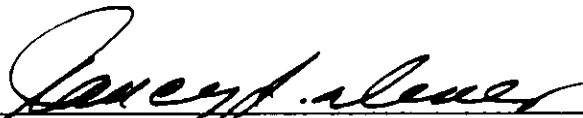
The facts of this case, and the Rules at bar, are comparable to those found in Third Division Award 27759 before the Board. The difference is that the painting in this case took place at Fond du Lac, and in that case at the Repair Shop at Stevens Point, Wisconsin. The discussion of Agreement provisions in that Award and arbitral precedent as they relate to those provisions, apply here by reference. The Board will also underline precedent found in recent Third Division Award 27179 which involves a dispute over jurisdiction of painting between this same Organization and the same Carrier. In that case, the dispute arose at North Fond du Lac, Wisconsin which is the same location of the dispute in the instant case. Precedent found in Third Division Award 27759. The Claim cannot, therefore, be sustained.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of March 1989.