

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(National Railroad Passenger Corporation
(Amtrak) - Northeast Corridor

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

(1) The Carrier violated the Agreement when it assigned C&S Department forces instead of Bridge and Building Department forces to paint yellow caution stripes on 32nd Street platform area on August 16, 1984 (System File NEC-BMWE-SD-1120).

(2) As a consequence of the aforesaid violation, Assistant B&B Painter Foreman G. Smith and B&B Painter A. DiCarne shall each be allowed an additional seven (7) hours of pay at their respective straight time rates."

FINDINGS:

The Third 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 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 were given due notice of hearing thereon.

As Third Party in Interest, the Brotherhood of Railroad Signalmen, the International Brotherhood of Electrical Workers and the Joint Council of Carmen were advised of the pendency of this dispute. The Brotherhood of Railroad Signalmen and the International Brotherhood of Electrical Workers filed Submissions with the Division. The Joint Council of Carmen did not file a Submission.

On August 16, 1984, Carrier assigned communication and signal personnel to paint yellow caution lines on the 32nd Street platform. B&B Paint Department employees observed the C&S people painting and filed a claim requesting eight straight-time hours for each of two Claimants.

A first level supervisor authorized one hours' pay in an effort to compromise the claim, because the C&S Foreman who assigned the work furnished a statement indicating the disputed work was performed in one hour.

Initially, we refuse to consider the first level supervisor's payment authorization as an indication of the Carrier's admission of guilt in this matter as the Organization has suggested in its argumentation. If this Board was to consider settlement offers as admissions of guilt in such cases, no responsible Carrier official or Organization officer would be able to resolve a dispute on the property without prejudicing their respective positions before this Board. For this reason, this Organization argument must be rejected. (Second Division Award 11101)

Our review of the record as developed on the property reveals irreconcilable facts leaving this Board without sufficient probative evidence to decide the Claim.

A W A R D

Claim dismissed.

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.