

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 29557
Docket No. MS-29418
93-3-90-3-320

The Third Division consisted of the regular members and in addition Referee Charlotte Gold when award was rendered.

PARTIES TO DISPUTE: (Lake Terminal Railroad Company
(United Steelworkers of America

STATEMENT OF CLAIM:

"Claim Number MW-13-89; The claim was filed by Etanislao Rivera Jr., Unit Griever on behalf of the Car Repair department employees (one(1) wreck crew as outlined in Rule 16; Car Repair Department Special Rules section (s) 1.

The grievants are claiming that the following rules were violated; Rule 16; sections (b), (d), (s) 1. and Rule of Definitions section (4), "Supervisor."

The grievants details of the alleged violation are as follows; On the date of Nov. 20, 1989 at approximately 9:45 a.m. Mr. R. Kepic, supervisor of the Maintenance of Way department, was observed placing wedge blocks under the wheels of car #BLEX 15159 (which had derailed in the area of track #714) in efforts to rerail the car. Car Shop employees were not utilized at this derailment. Present were LTRR superintendent J. Streett and Car Shop supervisor J. Justice. Power was provided by the USX/Kobe crane.

Remedy sought for this violation; In addition to all other earnings and benefits; two (2) hours pay at their regular rate of to each available member of a wreck crew per sect. (s) 1."

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 employes involved in this dispute are respectively carrier and employe 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.

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The facts of this case are similar to those in Third Division Award 29556 wherein compensation was requested on behalf of a wrecking crew composed of Car Repair Department employees for work in rerailing a derailed car. In that case, this Board determined that the Third Division was without proper jurisdiction and that the dispute should have more appropriately been placed before the Second Division of the NRAB. We so hold here.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 9th day of March 1993.