

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31095
Docket No. MS-31006
95-3-92-3-883

The Third Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

(William L. Riffle
PARTIES TO DISPUTE: (
(Consolidated Rail Corporation

STATEMENT OF CLAIM:

"This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on December 28, 1992, covering an unadjusted dispute between me and the Consolidated Rail Corporation involving the question: That I was displaced from my extra Block Operator position on the Hudson (Ohio) Extra Board in February of 1990 due to the sale of the Akron (Ohio) Branch to CSXT (ICC Finance Docket Number 31432) and therefore should receive labor protection under the New York Dock Railway-Control-Brooklyn Eastern District Terminal agreement (360 ICC 60 1979). This claim was denied by Conrail on December 9, 1991, and the Transportation Communications International Union has declined to further my claim to arbitration. I intend to file the claim in my own behalf."

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 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.

Claimant sought a Referee Hearing, but did not attend.

In this claim, Claimant contends that he was displaced from his Extra Block Operator position on the Hudson (Ohio) Extra Board in February 1990 due to the sale of the Akron (Ohio) Branch to CSXT. Therefore, Claimant insists that he should be entitled to labor protection under New York Dock.

Carrier argues that it did not violate the Agreement. It maintains that Claimant was never qualified on the Block Operator position at Warwick Tower, the only tower on the Akron Branch covered by the Hudson Extra List. Thus, in Carrier's view, Claimant could not have been adversely affected by the sale of the Akron Branch to CSXT, as he lost no potential work because of the transaction.

Accordingly, and for these reasons, Carrier asks that the claim be denied.

After a review of the record evidence, we conclude that the claim must be denied. It is well established that under New York Dock, the Claimant is required to identify the transaction which was instituted pursuant to New York Dock. Under the evidence presented here, a nexus has not been identified which would meet the criteria necessary to establish that a transaction, as defined by New York Dock, had occurred.

Accordingly, and for the foregoing reasons, the claim is 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 Third Division

Dated at Chicago, Illinois, this 1st day of September 1995.