



The Carrier states the Agreement of March 25, 1977, as quoted in the Carrier's submission bars the instant claim from handling before this Board.

We have reviewed the Agreement of October 1984 and attachment "A" which accompanied a request addressed to the National Mediation Board to establish a Board pursuant to Section 3, Second; of the Railway Labor Act for the purpose of resolving those disputes listed in attachment "A".

Based on the above referred to Agreement, we find this Board has jurisdiction and the claim is properly before this Board for adjudication.

The Organization contends the work complained of is the duty of Car Department employes when employed in a switching terminal where yard crews are employed.

The Carrier states that on this date, Claimants were required to couple to their train and make a set-up and release brake test to insure the train was in proper condition.

Neither party states what the past practice on the property has been. Article 60, Paragraph "C" of the Agreement is a scope rule outlining the duties which may be required of road trainmen in yard switching territory. Such duties are to be considered as part of their road service. Making a brake test or air test is not included within the scope rule which defines the duties Trainmen may be required to perform in switching terminals.

In the construction of Contracts or Agreements where there are general and specific provisions relating to the same thing, these specific conditions will control. This rule is referred to as "ejusdem generis" which means that the meaning of general words will ordinarily be construed as restricted by the particular designation and including only things of the same kind as those specifically enumerated.

In NRAB, First Division Award No. 14321, Referee Weeks expressed this rule in different terms when he stated:

"Where a rule enumerates things to be affected by it's provisions, there is an implied exclusion of others. This is a well established and fundamental legal maxim."

We find here the construction of the rule does not contemplate that Trainment will be required to make air tests in switching terminals where Carmen are employed. Had it been intended by the parties it would have been included as one of duties listed in Article 60, Paragraph C of the Agreement.

AWARD:

Claim sustained. The Carrier is directed to apply the Award within thirty (30) days from the date of the Award.

Neil P. Speirs  
Neil P. Speirs, Chairman & Neutral

C. Infante  
For the Organization

J. A. DeRoche  
For the Carrier  
I dissent

dated Nov. 5, 1985

Detroit, Michigan