

Award No. 3163

Docket No. 2897

2-GM&O-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 29, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**GULF, MOBILE AND OHIO RAILROAD COMPANY
(Northern Region)**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreements the carrier improperly assigned W. D. Hells and Carter Hines to perform extra and relief work as coach cleaners at St. Louis, Missouri.

2. That the following Coach Cleaners, as listed below, be compensated eight (8) hours at time and one-half rate for each day worked by Hells and Hines from June 7, 1956 through July 26, 1956 and each day worked subsequent to July 26, 1956, rotating claimants as listed:

June 7, 1956.....	D. Simmons and A. Wayne
June 8, 1956.....	T. Spain and A. Keese
June 9, 1956.....	B. Dyer and S. Anderson
June 10, 1956.....	J. W. White and Z. Wimberly
June 13, 1956.....	H. Latal and G. Hicks
June 14, 1956.....	L. Cullen and E. Grant
June 15, 1956.....	M. Walton and G. Campbell
June 16, 1956.....	V. Ditch and R. L. Wilson
June 17, 1956.....	J. H. Garge and B. Taylor
June 20, 1956.....	R. Ledbetter and T. R. Lewis
June 21, 1956.....	S. Robbins and A. Evergin
June 22, 1956.....	S. Caldwell and W. Holloway
June 23, 1956.....	B. Fedina and R. Brown
June 24, 1956.....	B. Taylor and E. Tate
June 26, 1956.....	E. Speight
June 27, 1956.....	E. Whitmore and E. Grant
June 28, 1956.....	T. Spain and M. Walton
June 29, 1956.....	S. Caldwell and A. Keese
June 30, 1956.....	R. Wilson and T. R. Lewis
July 1, 1956.....	G. Campbell

July 2, 1956.....	S. Robbins
July 3, 1956.....	R. Ledbetter
July 4, 1956.....	L. K. Long
July 5, 1956.....	H. Latal and C. M. Williams
July 6, 1956.....	W. Holloway and B. Caldwell
July 7, 1956.....	Z. Wimberly and J. W. White
July 8, 1956.....	S. Anderson
July 9, 1956.....	B. Taylor
July 10, 1956.....	G. Hicks
July 11, 1956.....	G. Karabag
July 12, 1956.....	E. Grant and R. Brown
July 13, 1956.....	T. Spain and A. Keese
July 14, 1956.....	S. Anderson and G. Campbell
July 15, 1956.....	J. H. Barge
July 16, 1956.....	S. Robbins
July 17, 1956.....	R. Brown
July 18, 1956.....	E. Tate
July 19, 1956.....	C. Stamply and G. H. Shepard
July 20, 1956.....	C. B. Word and C. M. Williams
July 21, 1956.....	R. Mack
July 22, 1956.....	M. Walton
July 23, 1956.....	P. Augustus
July 24, 1956.....	L. A. Betty
July 25, 1956.....	T. R. Lewis
July 26, 1956.....	A. Evergin and G. Shepard

EMPLOYEES' STATEMENT OF FACTS: Carter Hines and W. D. Hells are furloughed coach cleaners having worked for the carrier at Artesia, Mississippi and having seniority at that point only.

June 7, 1956 carrier called these two employees to perform extra and relief work at St. Louis Coach Shop and on June 8, 1956 both were required to file applications that they were available at all times to perform extra and relief work; copies of applications are submitted and identified as Exhibits A and A-1.

This dispute has been handled with the carrier up to and including the highest officer so designated by the company, with the result that he has declined to adjust it.

The agreement effective July 1, 1946, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that nothing in the August 21, 1954 Agreement provides that furloughed employees can perform relief work at points where they hold no seniority,

It is further submitted that Article IV, Note I, of the August 21, 1954 Agreement

“In the application of this rule to Employees who are represented by the Organizations affiliated with the Railway Employees' Department, A. F. of L., it shall not apply to extra work.”

prohibits furloughed employees from doing extra work. However, on July 11 and 12, 1956, Carter Hines was used when no one was laying off.

and requires that furloughed men be given preference of employment at other terminals. Rule 31 of the Southern Region Shop Crafts Agreement is similar to Rule 26 quoted above.

The facts related hereinfore completely and entirely refute the contention of the employees that Willie D. Hells and Carter L. Hines were improperly assigned to perform extra and relief work as coach cleaners at St. Louis beginning June 7, 1956. The two men were employed at St. Louis, having filled out regular application forms, and they established seniority as coach cleaners at St. Louis effective June 7, 1956. They were employed to fill long-time vacancies due to the fact there were no employees available having contractual rights to this work.

Furthermore, even if Willie D. Hells and Carter L. Hines had been improperly assigned to perform extra and relief work as coach cleaners at St. Louis, which they were not, claimants would not be entitled to compensation of any kind on all the dates for which claims were made because they were not available for service on all of them.

For the reasons hereinbefore given, carrier submits that the instant claims are without merit and should be denied; and prays your Honorable Board to so hold.

FINDINGS: The Second 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.

St. Louis is a Northern Region Terminal. There was need for two coach cleaners to fill in for two regular men who were off sick. Carter Hines and Willie Hells were experienced coach cleaners who had been furloughed at Artesia, Mississippi, on the Southern Region.

Hines and Hells went to work at St. Louis, June 7, 1956. One July 3, 1956, Bulletin 45 was posted advising of the two sickness vacancies. There were men furloughed at the time at another point on the Northern Region who could not be reached by the carrier.

Disregarding the fact that Hells and Hines had furlough status outside St. Louis, we believe the organization has failed to show that the Northern Region men who were furloughed were available to fill the needs of the carrier at St. Louis. That being so, carrier was justified in filling the complement by employing Hells and Hines in anticipation of the protracted sickness of the two absentees. However, until the sickness vacancies were advertised, the carrier erred in using Hines and Hells to the exclusion of senior St. Louis men who were entitled to bid for all work which appeared and was available. If the posting of Bulletin 45 had preceded the employment of Hells and Hines, there could be no claim.

It follows that until the shortage of man power became a demonstrated fact five days after the posting of July 3, the St. Louis claimants were entitled to be given the available work.

The claim is sustained at pro rata rate for the period up to and including July 8 for those claimants entitled thereto. Payment for subsequent dates is denied.

AWARD

Claim sustained in part as per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1959.