

NATIONAL RAILROAD ADJUSTMENT BOARD
Second Division

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)
CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES.—Pay for time lost by Messrs. C. W. Beall and W. S. Dumas, carmen helpers at El Reno, Oklahoma.

POSITION OF EMPLOYEES.—That Messrs. Beall and Dumas did properly perform their duties.

In large train yards such as El Reno many cars pass through and the same careful attention is given to one car as it is to all cars. Cars arriving with hot boxes are inspected for journal "cuts" or roughness and sent to repair tracks if found in this condition. If determined journal is "ok" car is rebrassed and repacked. Packing in boxes, if disturbed, is packed down and if found dry free oil is added.

Mr. Beall and Mr. Dumas performed these duties this day as on other days previous while in the service of the carrier and in so doing found nothing apparently wrong with car RI-59110. The packing was in good condition, there was sufficient oil and no indication of running hot.

It was also the contention of the employees that the real reason for Mr. Beall and Mr. Dumas being dismissed from service was because of their labor affiliations. Beall and Dumas withdrew their membership from the company union and joined the B. R. C. of A., affiliated with the A. F. of L.

The carrier is unable to show that discipline such as administered in this case was ever applied in a similar situation; also that the foreman at the investigation, made such references to these men's labor affiliations which had the purpose of intimidating them.

With reference to the waivers that these men signed under duress: the carrier was notified that the organizations these men were affiliated with did not recognize waivers signed under such circumstances as being valid.

Investigation does not develop that Mr. Beall and Mr. Dumas are guilty of improperly performing their duties, and Rule 34 of shopmen's agreement, dated 1929, specifically states "If it is found that an employe has been unjustly suspended or dismissed from service, such employe shall be reinstated with his seniority rights unimpaired and compensated for the wage loss, if any, resulting from said suspension or dismissal."

POSITION OF CARRIER.—C. W. Beall, carman-helper-oiler, and W. S. Dumas, carman-helper-oiler, El Reno, Oklahoma, were both dismissed from service on October 23, 1933.

Mr. Dumas was reinstated on November 24, 1933, and Mr. Beall on March 2, 1934, both with full seniority rights.

Rule 84 of the schedule governing rates of pay and working conditions of carmen helpers in effect in October, 1933, defines the duties of car oilers, in part as—

"* * * changing brasses and brake shoes in train yards, passenger and freight equipment * * * oiling and packing of passenger and freight cars * * *"

In the performance of their duty of "oiling and packing of * * * cars", car oilers are required to walk alongside of cars in trains while in yards, raising the lid of journal boxes, stir up the packing, adjust and add packing or oil, as may be necessary, and also observe condition of brake shoes, brasses and journals. The failure of car oilers to properly inspect or correct any improper condition which may exist or be developed in journal boxes, presents a very definite hazard and frequently results in the heating of and subsequent break-

ing off of journals, permitting the axle to drop on track, derailing cars, and resulting in damage to equipment, lading, and often in loss of life.

On October 17, 1933, Beall and Dumas were engaged in their regular and customary duty as car oilers, in inspecting journal boxes on cars, and during their tour of duty on this date they inspected freight train 998 before it departed from El Reno yard, Rock Island car 59110, which had arrived in El Reno from the south in train 996 at 5:00 A. M. on this date, was switched into train 998 and departed at 10:00 A. M. This car while in train 998 was inspected by Beall and Dumas. After train 998 left El Reno, it was delayed at Yukon, Oklahoma, 12.6 miles from El Reno, because of hot boxes on this car RI 59110, one of the boxes being on fire on arrival at Yukon. The train was delayed twenty minutes at Yukon because of this trouble. On arrival at Oklahoma City, 15 miles east of Yukon, it was necessary that car RI 59110 be rebrassed. After leaving Oklahoma City, additional trouble was experienced with the boxes on this same car and train 998 was further delayed at Harrah and 20 minutes at McCloud, Oklahoma, again rebrassing the same car. Upon arrival at Shawnee, it was necessary that wheels be changed on this car account both journals badly cut. The major portion of the trouble experienced with hot boxes on car RI 59110 occurred on the north side. Beall inspected the north side of this train in El Reno yard and he did not notice that the car had been running hot previously, nor did he raise the lids or examine the journals and, as a result of his negligence in performing his work, the delays indicated above occurred.

Dumas inspected the boxes on the south side of this train at El Reno and while there was no actual delay chargeable to the boxes on that side, the boxes on south side of car RI 59110 were hot when the trainmen worked on the north side boxes at Yukon and it was necessary that attention be given the south side boxes. Dumas did not give the boxes on his side of the train the proper inspection and necessary attention and an actual delay chargeable to poor inspection of boxes on his side of the train did not develop because the condition of the boxes on the north side was such as to cause them to give serious trouble first.

The information developed in these investigations, supported by the indisputable fact that trouble was experienced with RI car 59110 within a very short time and after travelling only approximately 13 miles, can lead only to the conclusion that there was a failure on the part of someone to do a good job of inspecting. Beall and Dumas were the employees of the carrier whose duty it was to know that all cars departing in train 998 on October 17, 1933, were in condition to run to the next terminal without giving trouble and they, therefore, were properly subject to discipline for failure to do that for which they were employed and paid by the carrier.

Beall and Dumas were dismissed because of poor workmanship in that they failed to give RI 59110 in train 998 the proper and necessary attention. Their failure to properly handle their duties was sufficiently serious to warrant removing them from the service and their period of time out of the service was commensurate with the degree of their individual responsibility.

When these men were returned to service waivers were signed releasing the carrier from payment for time lost, it being the company's understanding these men were being reinstated on a leniency basis.

FINDINGS.—The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees 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.

The parties to said dispute were given due notice of hearing thereon.

This is not the usual case of discipline by the ordinary employer. We agree that railroad management must accept full responsibility for its employees and their fair and just discipline. Where, however, there is an unusual situation existing, great care should be taken to protect the rights of employees who are dependent upon their wages for their livelihood, and who may be dealt with in arbitrary manner in a time of stress.

The record in this case is long and filled with testimony relating to sharply disputed issues of fact. We feel it would serve no useful purpose here to review the situation as it existed at the time of the dismissal, or to attempt

to reconcile the testimony of men who differed on questions that were not directly related to the work which was then being performed.

The issue before us in this case is a dispute similar in nature to those disposed of in Awards Nos. 22 and 23 of this Division.

C. W. Beall and W. S. Dumas were unjustly dismissed October 23, 1933.

AWARD

C. W. Beall, carman helper, shall be paid for time lost from October 23, 1933, to March 2, 1934.

W. S. Dumas, carman helper, shall be paid for time lost from October 23, 1933, to November 24, 1933.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. MINDLING
Secretary

Dated at Chicago, Illinois, this 21st day of May, 1936.