

Award No. 282

Docket No. 285

2-FEC-CM-'38

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 69, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (Carmen)**

FLORIDA EAST COAST RAILWAY

DISPUTE: CLAIM OF EMPLOYES: Claim for reinstatement of Carmen J. A. Lowery, G. W. King, J. T. King, A. J. King, G. W. Howard, F. S. Clark and Carmen Helpers (Oilers and Packers) George Ferguson and Morris Hagwood at Fort Pierce, Florida, with seniority unimpaired and pay for all time lost since May 31, 1933, account their positions being abolished and train service employees required by management to perform work formerly done by them in violation of the rules of the agreement in effect at the time, as well as subsequent agreements.

EMPLOYEES' STATEMENT OF FACTS: Effective at midnight, May 31, 1933, the car department forces were removed from Fort Pierce shops, which resulted in the following men being laid off:

Carmen	Seniority Date
J. A. Lowery.....	October 17, 1922
G. W. King.....	February 1, 1923
J. T. King.....	October 4, 1923
A. J. King.....	October 10, 1923
G. W. Howard.....	October 5, 1924
F. S. Clark.....	October 31, 1926

Carmen Helpers	Seniority Date
George Ferguson	October 20, 1919
Morris Hagwood	September 1, 1922

and since that time management has arbitrarily imposed work formerly done by these men on the trainmen.

POSITION OF EMPLOYES: It is the position of the employees that management had no right to take the work away from these men and require transportation department employees to perform the duties previously done by these carmen and carmen helpers, and that same is in strict violation of Rules 13-A, 73, 74 and 75 of the Agreement in effect at the time, as well as similar rules in subsequent agreements, including the agreement now in force.

Rule 13-A, ASSIGNMENT OF WORK, reads in part:

"None but Mechanics or Apprentices regularly employed as such shall do Mechanics' work, as per Special Rules of each Craft, except Foremen at points where no Mechanics are employed."

He could have added all kinds of perishable fruits and vegetables to perishable "citrus fruits," and added trucks to "refrigerated vessels," and have given a better picture of the situation.

(c) From 1928 to 1933, the freight business of the Florida East Coast Railway declined 48%, and this general reduction affected Fort Pierce, as well as all other points on the line.

(d) From 1928 to 1934, inclusive, the railway retired and dismantled 48 passenger and 1,769 freight and work equipment cars, thereby greatly reducing the amount of maintenance necessary. The railway now owns 431 freight cars, 163 passenger cars, and 313 miscellaneous work equipment cars of steel or composite construction, which reduces the maintenance necessary. A large percentage of these cars were purchased new in 1924-1925 and 1926, which reduced the necessary maintenance.

(e) The efforts of the mechanical division of the A. A. R. to repair cars at point of origin so that they would go through to destination with a minimum of repairs on line of road, still further reduced maintenance necessary on foreign equipment coming on this line.

4. Train service employes are not required by the management to perform work formerly done by carmen at Fort Pierce. When car inspection and repair forces were removed from Fort Pierce, it became as any other line of road station at which cars are set out or picked up. Bulletin 591, issued by Mr. A. I. Pooser, superintendent, to conductors, engineers and trainmen, dated May 14, 1933, covers duties of train crews. Copy of Bulletin 591 submitted as Exhibit 15.

Bulletin 820, issued by Mr. A. I. Pooser, superintendent, to conductors, engineers and trainmen, quotes Rule 42 of the American Railway Association, covering handling of trains where motive power or engine crews are changed. Copy of Bulletin 820 submitted as Exhibit 16.

Bulletin 591, last paragraph, reads: "Yard crews will take charge of inbound freight trains on arrival and make up outbound freight trains, but the outbound crew will be required to couple air hose when necessary, make any other emergency repairs that present such as brassing cars, packing boxes, etc., the same as is done at other line of road stations, and any cars that cannot be repaired by the train crew will be set out and notice extended to the Chief Dispatcher in order that he may make the necessary arrangements for repairs to be made."

A check of the work done by train crews at Fort Pierce does not show that they have done anything at that point that is not done by them at other line of road points where cars are picked up or set out.

Exhibit 17 shows work done by train crews at Fort Pierce from June 1, 1933, to July 5, 1938, authorized and required of train crews as shown on Form 337; also work done by carmen on cars set out by train crews.

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 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.

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

This dispute involves the right of carrier to abolish car inspection service at a point called Fort Pierce, Florida.

The carrier unquestionably has the right to reduce forces to meet reduction in business. It has also the right to abolish an entire force if the circumstances so warrant.

While Fort Pierce has not been a car repair point since May 31, 1933, the facts of record show that employes (other than carmen) have been performing work at that point such as inspection of cars and light repairs beyond what is generally recognized as work required of train service employes.

This Division cannot determine the actual amount of carmen's work that is being done, nor can it decide as to the number of carmen required for the performance of such carmen's work as may be necessary. That is a matter for adjustment, through conference, by the parties to the dispute, and this reasoning applies both as to the claim for reinstatement of carmen necessary to take care of the work required, and as to monetary loss suffered by such carmen as the parties may determine should have been retained to perform such carmen's duties as were necessary.

AWARD

Claim sustained in accordance with the last paragraph of the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 23rd day of November, 1938.