

Award No. 329  
Docket No. 328  
2-NYNH&H-CM-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. OF L. (CARMEN)**

**NEW YORK, NEW HAVEN AND HARTFORD RAILROAD  
COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** Request that William L. Sheehan, Albert Stella, Edward J. McCann, Leslie McClelland, Patrick J. Herrity, Thomas J. McCue, carmen helpers, at the Dover Street Passenger Car Yard at Boston, Massachusetts, be classified and rated as car inspectors.

**JOINT STATEMENT OF FACTS:** Rule 107 of the revised agreement effective April 9, 1937, which fixes the classification of work for carmen, includes car inspectors. Rule 109 covering the classification of work of carmen helpers includes "rebrassing of cars in connection with oiler's duties." It is the contention of the committee that the work which these men are doing is that of car inspectors as covered by Rule 107. It is the contention of the carrier that the work which they are doing is that of carmen helpers (oilers)—rebrassing of cars in connection with oiler's duties.

**POSITION OF EMPLOYEES:** It is our contention that Rule 107 has been violated, which reads in part: "Carmen's work shall consist of building, maintaining, dismantling (except all-wood freight and passenger train cars), painting, upholstering and inspecting all passenger and freight cars, both wood and steel, \* \* \* ." It is further contended that the inspections of cars or any part thereof can not be rightfully assigned to be done by anyone except a mechanic (car inspector), and he shall receive the mechanics' rate of pay (79¢ per hour). Prior to August 5, 1937, car inspectors received 74¢ per hour. These helpers, who are doing this work, are required to inspect every journal, this being done with what is known as a "tickler," and they are also required to carry a flashlight which is also used for inspection purposes.

When a defective journal bearing or wedge is discovered, the helper inspects and passes judgment on the part to be renewed. He is also required to make out the A. A. R. billing and he signs his name as the repairman. Again the management is trying to deviate from the language of the rule. Rule 107 very plainly states "inspecting" is mechanics' work and no one other than a mechanic can perform this work. Quoting a section of a telegram that has been used in previous cases, which was sent to me by the chairman of negotiating committee, Fred N. Aten: "Current agreement effective April 9th, 1937, supersedes all previous rules and practices stop No agreement nor understanding by negotiating committee to allow variations from rules beyond those spelled out in printed agreement as notes following cer-

previous agreement. Under proposed Rule 129 (classification of carmen helpers), present Rule 109, there was included, among other things "re-brassing of cars in connection with oilers' duties, cleaning journals \* \* \* and all other work generally recognized as carmen helpers' work, shall be classed as helpers'." Our notes of the various discussions on this rule show, in conjunction with Item 10 of Note I, that it was agreed that the language of the proposed rule, including "and all other work generally recognized as carmen helpers' work," would cover this feature. Accordingly, the work included within Item 10 of Note I has been continued as the work of carmen helpers (oilers) and the rate of 63¢ per hour maintained.

No request has been made that such work be assigned to carmen, but rather that the six carmen helpers, none of whom have ever held a standing as carmen, be reclassified as carmen and paid as such. Rule 106 provides, "Any man who has served an apprenticeship or who has had four years practical experience at carmen's work \* \* \* shall constitute a carman." Rule 57 provides for the manner in which helpers shall be considered for promotion to mechanics.

William L. Sheehan has a roster date as carman helper of July 17, 1922, and has been continuously employed in that capacity.

Albert Stella has a roster date as a carman helper of July 20, 1922, and has been continuously employed in that capacity.

Edward J. McCann last entered the service on February 8, 1923, as carman helper and has since been continuously employed in that capacity.

Leslie McClelland entered the service as a car cleaner on October 18, 1922, and has subsequently served as hose coupler, steamheat man, air brake helper and since April 14, 1923, as a car oiler (carman helper).

Thomas J. McCue entered service as a car cleaner on October 7, 1924, was subsequently employed as a sheet metal worker helper, steamheat man and since December 20, 1926, as a carmen helper.

As will be seen, none of these men are subject to classification as carmen and could be promoted to that classification only in accordance with the provisions of Rule 57.

The work these men are performing is that specified in the agreement, Rule 109, as that of carmen helpers and it is and has been so generally recognized on this property. As previously explained, the detail of the work, as covered by Item 10 of Note I of the previous agreement, was discussed and agreement had that it was subject to the provisions of Rule 109 of the revised agreement and the rates fixed in such agreement for helpers.

The claim of the employees is, in effect, a request that work, heretofore admittedly generally recognized as that of carmen helpers and as specifically so agreed to during our negotiations, be now recognized as carmen's work. No notice under the terminating clause of the agreement (Rule 124) and in accord with the provisions of Section 6 of the Railway Labor Act as amended, indicating a desire to revise the classification rules, has been served.

**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.

The duties and classes of work performed by the claimants come within the provisions of Rules Nos. 107 and 109.

From the evidence, this Division cannot pass upon the qualifications of the claimants for promotion to car inspectors as it appears that part of the work in question should be classified as carmen's work.

This Division suggests that both parties make a joint investigation, determining the amount of work coming within the provisions of the mechanics' rule and the helpers' rule, that in the end an amicable adjustment may be reached which would respect the rights of both parties.

#### AWARD

Award rendered in accordance with the aforesaid findings and with the understanding that the dispute may be resubmitted by either or both parties in the event of failure to reach a settlement.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 14th day of April, 1939.