

Award No. 530
Docket No. 511
2-MPL(I-GN & SAU&G)-CM-'41

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William E. Helander when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 14, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**MISSOURI PACIFIC LINES (INTERNATIONAL-GREAT
NORTHERN RAILROAD COMPANY—SAN ANTONIO,
UVALDE AND GULF RAILROAD COMPANY)**

DISPUTE: CLAIM OF EMPLOYEES: That car builder should have been sent to repair car on line instead of a helper and that Car Builder S. B. Ray of Palestine should be paid fourteen (14) hours forty (40) minutes account helper being used in violation of Rule 116 of the current agreement.

EMPLOYEES' STATEMENT OF FACTS: Car Builder Helper H. E. Pope was supplied with packing, packing iron, packing hook, air hose, hammer and cold chisel, and instructed by Car Foreman C. D. Hooper to go to Franklin, Texas, September 8, 1939, to work on TNO 51906 or to pull or repack boxes, and to ride with car back to Palestine. Mr. Pope departed from Palestine at 10:20 P. M. September 8, arrived Franklin about 1:00 A. M. September 9, worked the car and OK'd it, and return with car in local freight train, arriving at his home point, Palestine, about 7:00 P. M., September 9.

POSITION OF EMPLOYEES: Car TNO 51906 was damaged by fire at Franklin, Texas, on or about September 8, 1939. Car Foreman Mr. C. D. Hooper, of Palestine, went to Franklin to inspect and ascertain condition of car and found the superstructure of car burned. No carmen are stationed at Franklin, so Mr. Hooper sent Car Builder Helper Pope from Palestine, the closest shop point, to Franklin to make necessary repairs to move car to Palestine for disposition. Helper Pope made the trip as stated in employes' statement of facts, and rode back with car as instructed to take care of any further hot boxes that might develop in the approximately seventy miles between Franklin and Palestine.

Local committee at Palestine handled claim for Carman Ray on the basis of Rule 116, but the claim was denied. General chairman wrote, December 9 (Exhibit A), to master car builder claiming that Rule 116 had been violated in sending helper out on line to make repairs to car. Master car builder replied October 24, 1939 (Exhibit B), and attached copy of letter from Car Foreman C. D. Hooper to master mechanic (Exhibit C) and also copy of letter (Exhibit D) from Helper Pope addressed to Car Foreman Hooper.

On Mr. Hooper's return to Palestine, he sent Car Builder Helper Pope to Franklin and instructed him to pack the journal boxes and to ride the local into Palestine and to repack the boxes on the road in case they should need repacking. He also furnished Mr. Pope with an air hose to take with him and told him to deliver it to the conductor on No. 92, so that he could apply it if needed. This was done to be sure that he would have an air hose as he thought there might not be one on the caboose. In addition to repacking the boxes on the car referred to, Mr. Pope stated that there were a few pieces of siding on side of the car, that he knocked off and tied two pieces of door rail on frame with wire and below is statement made by Mr. Pope as to just what he did from the time he left Palestine at 10:20 P. M. of September 8 until he arrived back in Palestine September 9, about 7:00 P. M.:

"Palestine, Texas, October 20, 1939.

Mr. C. D. Hooper:

I was called to go to Franklin Sept. 8th, left here on No. 7 at 10:20 P. M. arrived at Franklin about 1:00 A. M. to work on T&NO 51906 or to pull and repack car for running. The car was on side track beside gin which was burned down. All the siding was burnt off car. There was a few pieces on side of car. I knocked them off and tied two pieces of door rail on frame with wire. I carried with me 2 cans of packing, 1 air hose, pulling hook, packing iron, hammer and cold chisel. OK'd car and came home arrived back in Palestine the 9th of Sept. about 7:00 P. M.

Signed: H. E. Pope

Car Builder Helper."

The above statement of Mr. Pope indicates that he made no repairs whatever to the car at Franklin, but of his own accord knocked a few pieces of siding off the side of the car and tied two pieces of door rail on the frame with wire. The carrier does not consider that such work constitutes repairs; however, Mr. C. D. Hooper, car foreman, states that his inspection disclosed that the burned frame would be safe to move to Palestine after the journal boxes were repacked and that he did not consider it necessary for Car Builder Helper Pope to have removed the few pieces of siding or to have tied the two pieces of door rail on frame with wire.

Rule 107, as contained in the current agreement with the System Federation No. 14, Railway Employees Department A. F. of L., Mechanical Section Thereof, which includes the Brotherhood Railway Carmen of America, effective December 1, 1936, provides that the packing of journal boxes is carman helper's work and the fact that Helper Pope pulled off several pieces of the burned siding and secured two pieces of door rail to the frame of the car so that this latter material could be brought in for disposition did not constitute repair work or conflict with carmen's classification of work in any way.

Rule 42, Section C, provides that the scrapping of cars may be performed by any class of available help.

It is the contention of the carrier that the work performed by Car Builder Helper Pope in connection with the preparation of burned car T. & N. O. 51906 for movement in train to Palestine did not constitute repairs to the car; that he performed no work which properly devolved upon carmen, and, therefore, Car Builder Ray is not entitled to the time claimed and your Honorable Board is respectfully petitioned to so rule.

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.

Rule 116 provides: "When necessary to repair cars on the road or away from the shops, carman, and helper when necessary, will be sent out to perform such work as putting in couplers, draft rods, draft timbers, arch bars, center pins, putting cars on center, truss rods, and wheels, and work of similar character."

Use of helper on line of road is prohibited by this rule unless he is assisting a carman.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of January, 1941.