

Award No. 818
Docket No. 759
2-IGN(SAU&G)-CM-'42

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Bruce Blake when award was rendered.

PARTIES TO DISPUTE:

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

INTERNATIONAL-GREAT NORTHERN RAILROAD
COMPANY

SAN ANTONIO, UVALDE & GULF RAILROAD

DISPUTE: CLAIM OF EMPLOYES: That on November 20, 1940, and December 4, 1940, the carrier violated Carmen's Special Rule 116, by the assignment of Carman Helper Mr. J. H. Weis to accompany passenger train to observe the running condition of new wheels, the journals and new brasses thereof, and that for the illegal use of this helper, Carmen J. B. Hoffman and A. A. Warren, respectively, be paid 12 hours and 55 minutes, and 16 hours and 35 minutes at 76¢ per hour.

EMPLOYES' STATEMENT OF FACTS: On or about November 20, 1940, one pair of wheels was applied to a baggage car at Houston, Texas. This car departed in train No. 22, departing from Houston at 12:30 P. M., November 20, 1940. Carman Helper J. H. Weis, whose regular shift on that date was from 7:00 A. M. to 4:00 P. M. with hour for lunch between 12:00 noon and 1:00 P. M., was sent out with train to observe running condition of wheels, brasses, etc., and took with him 1 journal jack, blocks, 2 brasses, 1 bucket of packing, 1 can of oil, and packing hook. He arrived at Palestine at 4:00 P. M., waited until 10:00 P. M. same date, and departed from Palestine on train 65, arriving at Houston at 4:55 A. M. November 21, 1940.

On or about December 4, 1940, six pairs of wheels were applied to Pullman "Morning Star" at Houston, Texas. This car departed from Houston in train No. 26 at 3:00 P. M. December 4, 1940. Carman Helper J. H. Weis was sent with train to observe the running condition of wheels, brasses, etc., and took with him 1 journal jack, jack blocks, 2 brasses, 1 bucket of packing, can of oil, and packing hook. He arrived at Palestine at 6:40 P. M., waited until 9:45 P. M. December 4, and returned to Houston on train 65 arriving Houston at 5:00 A. M., December 5, 1940. Weis' regular shift at home station of Houston on December 4 was from 7:00 A. M. to 3:00 P. M.

Carman J. B. Hoffman who was entitled to overtime of trip on November 20, was regularly assigned to work from 7:00 A. M. to 4:00 P. M. with hour for lunch between 12:00 noon and 1:00 P. M. He is entitled to 12 hours and 55 minutes pay for the actual overtime made by Helper Weis on this trip.

Award 530, referred to by the general chairman of the carmen's organization, covers an entirely different case, as that was a case wherein a carman helper was sent out to accompany a burned car from an outlying point to a terminal, and performed work on the car prior to its being dispatched in the train. It has no application in so far as this case is concerned.

It is the contention of the carrier that the use of carman helper in the case covered by this docket was in accordance with the rules of the agreement as well as past practice, and your Honorable Board is respectfully petitioned to deny the claim of the employees.

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.

In Award No. 530, this Division, construing this identical Rule 116 of the controlling agreement, held that: "Use of helper on line of road is prohibited by this rule unless he is assisting a carman." The Division is of the opinion, however, that the rule was not violated in the instant case. It does not appear from the record that Helper Weis was **used** on either trip in question. In other words, it is not shown that he performed work of any kind while on the road on the dates involved.

AWARD

Claims denied in accord with the above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 6th day of August, 1942.