

Award No. 835

Docket No. 766

2-DT&I-CM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 138, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

DETROIT, TOLEDO AND IRONTON RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: Under the controlling agreement, the inspection and write-up job on the repair tracks at Flat Rock, Michigan, is subject to be bulletined to carmen.

EMPLOYEES' STATEMENT OF FACTS: Prior to October 18, 1939, at Flat Rock repair track, carmen performed the inspection of and write-up work on cars. Carman Cardnell bid off of said job and on October 18, 1939, Carmen Apprentice-helper M. B. Crooks was arbitrarily assigned to fill the vacancy of Carman Cardnell.

The carmen have insisted that said inspection and write-up job be bulletined. The carrier has persistently declined to concur in the carmen's position.

POSITION OF EMPLOYEES:

First:

- (a) The work of inspecting cars whether on the repair track or in the train yard and reporting the defects in writing on a work card or ticket, is the work of carmen within the meaning of Rules 25, 67, 68, 71 and 83. This judgment is confirmed by the following facts:
- (b) Rule 83, includes the classification of "Carmen (Inspector.)"
- (c) Rule 71, requires that carmen assigned to the inspection of cars must possess certain knowledge.
- (d) Rule 68, provides that—

"Carmen's work shall consist of . . . inspecting all passenger and freight cars, both wood and steel . . ."
- (e) Rule 67 provides that an inspector of passenger and freight cars, both wood and steel, must have "served an apprenticeship or . . . four years practical experience at carmen's work. . . ."

referred to as the "write-up job." It consumes on an average of about five hours daily of one man's time. Of course writing up the cars on the repair track is not always done by the assistant foreman. When he is busy on something else the foreman, or assistant foreman and wreck master will do the work or someone else may be assigned.

Likewise writing up wheels that are changed out is supervisory work. The wheels must be checked and gauged and a decision made as to whether or not the wheels should be changed. If changed a standard form of billing card is written up.

Checking and inspecting cars after repairs have been made preparatory to releasing cars for service is supervisory. This is a part of the Assistant Foreman's duties as outlined in paragraph 5 above and requires on an average of about two hours per day.

On the very first page of the agreement effective November 1, 1934, is stated:

"It is understood that this agreement shall apply to those who perform the work specified in this agreement in the Maintenance of Equipment Department."

It was decided by the parties who executed that agreement in 1934 when the agreement was made effective and all jobs bulletined and assigned that the "write-up job" at Flat Rock yard was not work specified in the agreement. No change has been made to date.

A careful reading of Rule 68, which defines carmen's work, is convincing that the contract covers the doing of the work therein described and does not cover the supervisory preparations preliminary to doing the work.

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 evidence of record supports the conclusion that the so-called "inspection and write-up job" here involved is supervisory work, and that there is no provision in the agreement requiring that this work be bulletined to carmen.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of October, 1942.