

Award No. 1001

Docket No. 929

2-CB&Q-CM-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: (a) Repairing all cars on the road or away from the shops is carmen's work under the current agreement.

(b) Repairing of cars by Section Foreman G. E. Van Dusen of Yates City, Illinois, is a violation of the current agreement, specifically Rule 74, and that Carman L. E. Cruys be compensated under the provisions of Rule 9 for all car repair work performed by section foreman on and subsequent to March 19, 1943.

EMPLOYEES' STATEMENT OF FACTS: L. E. Cruys holds carman's rights as of February 17, 1936, at Galesburg, Illinois, and is regularly employed on the 8:00 A. M. to 4:30 P. M. shift, six (6) days per week, and is recognized as roadman at Galesburg, Illinois, taking care of emergency road work classified under Rule 74. The carrier has what is known as a station wagon at Galesburg, which L. E. Cruys uses for the purpose of hauling material and securing transportation from Galesburg to wherever the emergency develops on line of road, which comes under Rule 74, that must be repaired away from shop points.

On March 19, 1943, at Yates City, Illinois, Section Foreman G. E. Van Dusen rebrassed N.W.X. 14896, refrigerated load of beer set out of train from Peoria, Illinois, rebrassed R 4 journal box, applying 5 x 9 brass, account worn out. March 19, 1943, rebrassed New York Central 840395, load of coal, R3, one new 5½ x 10 brass, account worn out. March 20, 1943, repaired M.P. 70715, empty coal, L4, 5½ x 10 brass, account worn out. March 21, 1943, C & O 44028, empty coal, L3, 5½ x 10 brass, account worn out. March 23, 1943, C & S 18011, empty coal, repacked and oiled, account dry packing.

As all of the above mentioned work was performed by Section Foreman G. E. Van Dusen and no carmen are employed at Yates City, which is a distance of twenty miles from Galesburg, Illinois, and L. E. Cruys was not

tenance of way employes to rebrass cars, and nothing has been submitted and nothing can be submitted by any person which even by remote implication prohibits continuation of this long existing practice.

A Sustaining Award would have the effect of creating a new Rule, thus establishing a wasteful practice involving expenses, equipment and manpower.

The petitioner seeks to have the Second Division of the National Railroad Adjustment Board issue an award which would require that carmen be used to rebrass all cars set out on line of road. To do such a thing is unthinkable. It is a common occurrence to set out cars containing material essential to the war effort at intermediate points when such cars run hot, and more often than otherwise they are immediately rebrassed and repacked by section men, thus permitting prompt movement in a following train with but little delay. The result of this efficient handling is a saving of car movement hours and a saving in manpower. In this respect, there are territories on the system where the points at which carmen are employed are more than one-hundred miles apart. Under these circumstances, with only one passenger train operating in each direction each day, it would take as much as forty-eight hours to make a carman available to rebrass a car and return him to his home point. During the interim, the badly needed car and the commodity, be it ammunition, hospital equipment or whatever it might be, would be delayed in a manner for which there is no excuse. The carrier sincerely believes and unhesitatingly states that it cannot conceive of any tribunal wilfully bringing about such a condition.

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 claimant, Carman Cruys, relies upon Rule 74 of the controlling agreement, which deals with road work. The rule reads: "When necessary to repair cars on the road or away from the shops, carmen, 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, wheels, and other work of similar character."

This rule does not expressly include the rebrassing of cars (the work involved in this proceeding), nor is the rebrassing of cars on the road or away from the shops work of a character similar to that specifically set forth in the rule.

It should be noted, furthermore, that even Rule 68, the carmen's classification rule, does not expressly or impliedly include the brassing or rebrassing of cars, since such work is specifically covered by Rule 70, the carmen helpers' classification rule.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of March, 1944.