

Award No. 1088

Docket No. 1008

2-CGW-CM-'45

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 73, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

CHICAGO GREAT WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: (1) Complaint that the car inspector at Ingaltan, Illinois, is required to take record of seals, which is in violation of Rule 160 of the Carmen's Special Rules, shop crafts' agreement.

(2) That the carrier discontinue requiring the car inspector at Ingaltan to take record of these seals.

JOINT STATEMENT OF FACTS: The Illinois Division of the Chicago Great Western Railway extends from Chicago, Illinois to Oelwein, Iowa, a distance of 245 miles. Ingaltan is a station located on the Illinois Division and is located 30.7 miles west of Chicago, where the carrier conducts interchange business with the Elgin, Joliet & Eastern Railway. There are five tracks at Ingaltan, one holding 66 cars, another 62 cars, and there are three stub tracks, one holding 20 cars, one 17 cars and one 12 cars. The latter is used for light running repairs on cars. The carrier employs one car inspector at Ingaltan; also three telegraphers, around the clock. The day telegrapher is also the agent. This constitutes the entire force employed by the Chicago Great Western Railway at this station. The car inspector at this point is required and has been taking seal records for at least sixteen years. Car inspector at Ingaltan is regularly assigned at that point from 8:00 A.M. to 5:00 P.M., with lunch period of one hour, to inspect and repair cars, and he is carried on Chicago Transfer car department seniority roster with a date as of July 11, 1926. The Elgin, Joliet and Eastern Railroad also employs a car inspector at Ingaltan, whose signed hours are from 8:00 P.M. to 5 A.M., with lunch period of one hour. The complainants in this case are basing their claim on the following carmen's special rule, shop crafts agreement:

Rule 160—"Inspectors and other carmen in train yards will not be required to take record, for conducting transportation purposes, of seals, commodities or destination of cars where record clerks, yardmasters, agents, or yard clerks are employed."

POSITION OF EMPLOYEES: (1) That Ingaltan interchange falls within the category of a train yard by reason of the trackage accommodations within the meaning of Rule 160.

The only question in dispute in this case is whether or not Ingalton is a train yard as contemplated in Rule 160, upon which the organizations are basing their claim.

It is the position of the carrier that Ingalton is not a train yard, and respectfully requests this Board to so decide.

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.

This case was submitted on a joint statement of facts. It is the contention of the employes that the carrier violated Rule 160 of the shop crafts' agreement by requiring the car inspector at Ingalton to make a record of seals. The procedure followed at Ingalton has been the same for sixteen years.

Repeated violation of a rule does not change it, but where there is doubt as to what the rule means, the interpretation placed upon it by the employes and the carrier for a long period of time clearly shows the intent and understanding of the parties. For sixteen years the present practice at Ingalton has prevailed. In view of this long period of time in which there has been no complaint, this Board is of the opinion that the claim will have to be denied. See Award 974.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling,
Secretary

Dated at Chicago, Illinois, this 21st day of June, 1945.