

Award No. 1453

Docket No. 1366

2-WT-CM- '51

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

THE WICHITA TERMINAL ASSOCIATION

DISPUTE: CLAIM OF EMPLOYEES: The car inspectors employed by Wichita Terminal Association were unjustly deprived of their service rights when—

a) Beginning Sunday, August 14, 1949 and each Sunday thereafter to date, and beginning Saturday, September 3, 1949 and each Saturday thereafter to date, Santa Fe carmen were assigned to perform the regular duties of the Wichita Terminal Association inspectors.

b) In consideration of the foregoing, Car Inspectors J. L. Hinshaw, J. A. Rector and L. J. Smith are each entitled to be compensated for all time lost at the rate of time and one-half.

EMPLOYEES' STATEMENT OF FACTS: First, J. L. Hinshaw, J. A. Rector and L. J. Smith, hereinafter referred to as the claimants, are regularly employed by Wichita Terminal Association as car inspectors, hours of assignment prior to August 14, 1949 being: Hinshaw, 7 A. M. to 3 P. M., 7 days per week. Rector, 3 P. M. to 11 P. M., 7 days per week. Smith, 11 P. M. to 7 A. M., 7 days per week.

On August 13, 1949 the following bulletin was posted (employees' Exhibit A), reading:

"Wichita, Kansas—August 13, 1949—15-3
Chief Car Inspectors:

Effective tomorrow—August 14—car inspectors will not work on Sundays until further notice, i.e., their assignment will be Monday to Saturday, inclusive.

(s) F. R. Walker
Superintendent—JT AGENT"

advising claimants that their weekly assignment was changed, and henceforth they would work Monday through Saturday.

On August 16, 1949 local chairman of carmen wrote Mr. F. R. Walker, superintendent (employees' Exhibit B)—his letter reading in part as follows:

- (3) claim as appealed to the chairman of the managing board involved only a claim for payment for Sundays not worked by car inspectors from August 14, 1949, forward, no mention being made in formal appeal of general chairman of claim for payment for Saturdays not worked from September 3, 1949, forward.
- (4) general chairman of the carmen's brotherhood gave the carrier no advise of the intention of the carmen's brotherhood to appeal the claim in the instant dispute to the Second Division of the National Railroad Adjustment Board.
- (5) notice of Michael Fox, acting president of the Railway Employees' Department, dated November 1, 1950, file 14B-310-Scope-2057, to the Second Division of the National Railroad Adjustment Board, giving notice of intention to file an ex parte submission in the instant dispute, contains a statement of the dispute, which involves a question not properly before the Board for the reason that this question has not been handled with the carrier. That part of the dispute (in paragraph "a") as set forth in Mr. Fox' letter of November 1, 1950, which reads:

" . . . and beginning Saturday, September 3, 1949, and each Saturday thereafter to date"

has not been presented, handled or progressed to the carrier.

On these five (5) counts alone the dispute as presented by the carmen's brotherhood is not properly before the Second Division and if considered by the Second Division, with the assent of the carrier, it should only be with the understanding that the carmen's brotherhood will furnish the carrier with some assurance that in the future the proper handling will obtain.

In conclusion the carrier reiterates that there is no merit to or schedule support for the claim in the instant dispute, which must be denied.

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 conferred upon by the parties in interest on June 12, 1951, following a hearing before this Division on February 27, 1951.

However, the conference adverted to failed to adjust this particular dispute; and now having the matter for disposition, this Division finds that the respondent carrier did not relinquish complete jurisdiction of the work complained of until July 1, 1950, and thinks the dispute ought to be disposed of by an analogous application of Rule 6 (d) of the current working agreement to each shift on each Saturday and/or Sunday here involved, provided of course that others than Wichita Terminal Association inspectors

actually performed interchange inspection work on any shift on said days which was ordinarily performed on other days of the week under the jurisdiction of The Wichita Terminal Association.

AWARD

Claim disposed of per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of July, 1951.