

Award No. 1549

Docket No. 1448

2-L&N-CM-'52

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

LOUISVILLE & NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That orders issued by local Carrier officials, Ravenna, Kentucky, forbidding carmen helpers (Oilers) in train yards, the use of blue signals is a violation of the current working Agreement.

2. That the Carrier be ordered to rescind such orders and issue instructions to display blue signals in conformity with the Agreement.

EMPLOYES' STATEMENT OF FACTS: On August 11, 1950, local officials of this carrier at Ravenna, Kentucky, issued instructions to all train yard carmen helpers (oilers) that they must not display blue signals on trains or cars serviced by them.

Since that date (August 11, 1950) forward, no oiler has been permitted to use either blue flags by day or blue lights by night as a safety measure during the performance of their duties in the train yards.

There are locomotives, trains and cars being shunted into and removed from these train yard tracks at all times, including the moving of cars upon which these employes are working.

This dispute has been handled repeatedly with carrier officials, from the bottom to the top, without obtaining the desired results.

The Agreement dated September 1, 1943, is controlling.

POSITION OF EMPLOYES: It is submitted that there is nothing between the covers of the current agreement providing the carrier with such rights as was arbitrarily exercised here. Further, such action is contrary to the principles of safety as well as a violation of General Rule 48, reading, in part, as follows:

"No employe will be required to work under a locomotive or car without being protected by proper signals. Signals will be placed and removed only by the employes performing the work."

and Rule 112 of the carmen's special rules captioned: "USE OF BLUE SIGNALS" reading as follows:

men will display the blue signals and the same workmen are alone authorized to remove them."

The foregoing rule has no application for the reason that it merely tells what takes place when the blue flag is displayed. It does not determine when the blue signals must be displayed. That is done by Rule 48, which, as above shown, is inapplicable here.

The facts show conclusively there has been no violation of the agreement. It is our position, therefore, that lacking support of the agreement the claim is wholly without merit and should 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.

The carmen of System Federation No. 91 contend carrier, in violation of their current working agreement, issued an order forbidding oilers the use of blue signals. This denial of their use of blue signals is in connection with servicing journal boxes on cars at Ravenna, Kentucky, after the cars have been placed on outbound tracks.

Carrier bases its right to do so on the fact that under the provisions of Rule 48 of the then effective agreement, which is Rule 49 of the agreement as currently revised, blue signals are only required when employes are at work under cars, which is not the normal position of oilers when performing these services.

However Rule 112 of the then effective agreement, which is Rule 113 of the agreement as currently revised, relates to the "Use of Blue Signals." This rule sets forth what a blue signal means when used, inferentially designates when it should be used, and gives to each class of workmen the right to display blue signals when there is need for doing so. It authorizes their use by workmen who are either "under or about" cars while performing their duties. There can be no question but what oilers are "about" the cars when they are servicing journal boxes. Under such conditions carrier could not, by a unilateral order, prohibit what the parties have, by contract, agreed to. It could only be done in the manner which the contract provides for that purpose.

We find that the claim should be allowed and direct that the oilers be permitted to display blue signals while performing the work of servicing journal boxes.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of June, 1952.