

Award No. 1595

Docket No. 1565

2-AT&SF-CM-'52

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)***

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY (Coast Lines)**

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier improperly assigned a water service Maintenance of Way employe, L. R. Geyer, to perform Carman Painter's work, painting the Carrier's highway truck portable shelter top on October 30, 1951.

2. Accordingly the Carrier be ordered to additionally compensate Carman Painter A. B. McCauley therefor in the amount of eight hours at the applicable overtime rate for October 30, 1951.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains a mechanical department shop at Richmond, California, and at this seniority point five carman painters are employed, one of which is Carman Painter A. B. McCauley, hereinafter referred to as the claimant, with first shift assigned hours, work week Monday through Friday. On Tuesday, October 30, 1951, between the hours of 8:30 A.M. and 12:00 Noon and 12:30 P.M. and 3:10 P.M. maintenance of way water service employe, L. R. Geyer, not a carman painter, was assigned by the carrier to paint the top and sides of a portable shelter top, used on a carrier highway shop truck to protect the employes from inclement weather at Richmond, California.

The equipment painted—the truck portable top—is equipment which has been painted by carman painters for years immemorial, until October 30, 1951.

The carrier has declined to adjust this dispute.

The agreement effective August 1, 1945 is controlling.

POSITION OF EMPLOYES: It is not in dispute that this claimant established and maintains seniority rights within the sub-division "Painters," under the terms of Rule 28, captioned "SENIORITY," and that the claimant

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.

Both the Railway Labor Act and the established procedure on the property require that cases be conferred upon by the parties before they will be cognizable by this Board. This means a sincere effort be made to solve the dispute—not a mere perfunctory conversation or reference to it. No such conference was held in this case; it is therefore here prematurely.

AWARD

Case remanded for conference between the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of December, 1952.