Award No. 2592
Docket No. 2386
2-GM&O-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 29, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Carmen)

GULF, MOBILE AND OHIO RAILROAD COMPANY (Northern Region)

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement the Carrier improperly assigned others than Carmen to assemble and install steel tops and windshields to open top motor cars that are used in the Roadway Department.

2. That accordingly the Carrier be ordered to restore the aforesaid work to Carmen.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains a force of carmen at Bloomington, Illinois who are regularly assigned to build and repair motor cars, hand cars, lever cars and station trucks.

The carrier purchased thirty (30) or more sets of steel tops and windshields to be installed on open top motor cars that are used in the Roadway Department and these were delivered to the carrier's stores department at Bloomington, Illinois. On or around January 25, 1956, the carrier started shipping these tops and windshields to various points on the railroad and an employe other than a carman was sent to these points to assemble and install the tops and windshields to the open top motor cars, making these parts a permanent part of the motor car.

In some cases, the tops and windshields were installed by the section gangs or other roadway department employes.

POSITION OF EMPLOYES: It is submitted that the foregoing statement of dispute is conclusively supported by the collective bargaining current agreement made in pursuance of the Amended Railway Labor Act because the work in question is stipulated in the above statement of facts and that

"This work is the work of carmen and is spelled out in Rule 144 of the agreement as being carmen's work."

The Rule 144 to which he referred is a definition of the "Classification" of work for carmen and provides that—

"Carmen's work shall consist of . . . **carmen's work** in building and repairing motor cars, lever cars, hand cars and station trucks . . . and all other work generally recognized as carmen's work." (Emphasis supplied.)

It is readily apparent that General Chairman Schneblin erred when he said that Rule 144 "spelled out" that the work of applying steel tops and windshields to section motor cars was "carmen's work". The said Rule 144 defines the work of carmen as being only a **portion** of the work of building and repairing motor cars, and the said portion is only that part of the work which is there described as being **"carmen's work"**. Historically, carmen's work on section motor cars is that which is performed at a shop facility when such cars are there being overhauled. Certainly, light repairs are not and never have been carmen's work when made to section motor cars in place on the sections where assigned—and it would be wholly impracticable to attempt such a procedure.

Finally, carrier's position is strongly supported by a statement that appears in the findings of your Honorable Division in its Award No. 1874, reading: "It is clear that the essential distinction between repair work which may properly be performed by Maintenance of Way Employes and by members of the Maintenance of Equipment Department is whether or not such work involves light or heavy repairs". Assuredly, the work in question here was that which must be considered to be "light repairs".

Carrier submits that the instant claim should be denied and prays your Honorable 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.

The carmen claim 1, that carrier improperly assigned others than carmen to assemble and install steel tops and windshields to open top motor cars and 2, that carrier be ordered to restore the work to carmen.

The facts offered show that in the past various styles of weather protection had been added by some roadmen to the cars assigned them. The state legislature decreed that such protection should be added, whereupon the carrier bought thirty (30) attachments offered by the makers of the cars and sent all but two (2) of them out to the various sections where they were installed according to the manufacturer's instructions, presumably by the roadmen who could complete the task in about two (2) hours.

Rule 144 says, "carmen's work shall consist of * * * building and repairing motor cars." The question is whether installing these special attachments is "building and repairing." In view of the simple nature of the work, the short time consumed, the fact that some roadmen had been providing similar devices and considering also that the roadmen undoubtedly have maintained the cars in their charge with minor or trivial adjustments, this Board in drawing the line between the two classes of workmen, places such work as here shown, on the side of the roadmen. The work was not "building or repairing" in the sense that the parties intended when such work was reserved to the carmen.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 1st day of August, 1957.

DISSENT OF LABOR MEMBERS TO AWARD No. 2592

The majority in the findings state that "The facts offered show that . . . the carrier bought thirty (30) attachments . . . and sent all but two (2) of them out to the various sections where they were installed . . . presumably by the roadmen who could complete the task in about two (2) hours, but the majority ignores the fact that the two aforementioned attachments were applied by carmen in approximately two hours. This fact shows the carrier's recognition of the carmen's right to perform the instant work in the shop facilities, thereby conceding, at least impliedly, that the work falls within the scope of Rule 144 and is therefore carmen's work.

The majority then erroneously finds that "In view of the simple nature of the work, . . . The work was not 'building or repairing' in the sense that the parties intended when such work was reserved to the carmen." The controlling agreement provides no basis for such a finding; Rule 144 prescribes, with qualification as to nature of work, that "building and repairing" is carmen's work.

R. W. Blake

Charles E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink