

Award No. 2673

Docket No. 2518

2-CGW-FT-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE

CHICAGO GREAT WESTERN RAILWAY COMPANY

**SYSTEM FEDERATION NO. 73, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Federated Trades)**

DISPUTE: CLAIM OF CARRIER:

(10) Claim that the Carrier has violated Rule 35 of the Shop Crafts Agreement effective February 1, 1924 (Reprinted June 1, 1954) by failing to drain or fill in a pool of stagnant water and that same constitutes a hazard to public health as well as to the employes at St. Paul Repair Track.

CARRIER'S STATEMENT OF FACTS: Rule 35 of agreement (hereinafter referred to as Shop Crafts' Agreement) effective February 1, 1924 (Reprinted June 1, 1954) between the Chicago Great Western Railway Company and employes represented by organizations composing System Federation No. 73, reads as follows:

"(a) Good drinking water and ice will be furnished. Sanitary drinking fountains will be provided where necessary. Pits and floors, lockers, toilets and wash rooms will be kept in good repair and in a clean, dry, and sanitary condition.

"(b) Shops, locker rooms, and wash rooms will be lighted and heated in the best manner possible consistent with the source of heat and light available at the point in question."

General Chairman Herman of the Brotherhood of Railway Carmen of America, on October 23, 1954, addressed the following letter to the carrier:

Railway Employees' Department, AFL-CIO to endeavor to settle them by further negotiations or by means other than National Railroad Adjustment Board pursuant to Article V, Section 5, of the agreement of August 21, 1954, has been challenged by the carrier in the courts.

It is, therefore, our position that until the courts have determined this matter and until these disputes have been handled as provided in Section 3, First (i) of the Railway Labor Act, as Amended, they are not properly referable to your Board.

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 record shows that the issue presented by the claim is now moot, so the claim will be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1957.