

Award No. 2993
Docket No. 2704
2-DS-TWUofA-'58

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:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION OF
AMERICA, AFL-CIO**

DONORA SOUTHERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

That Article 10(d) was violated when someone other than a Diesel Mechanic performed work that belongs to Diesel Mechanics.

That according to Article 10(d) that the work done was work that belonged to Diesel Mechanics.

The Organization feels that since others than a Diesel Mechanic performed the work that belongs to a Diesel Mechanic, that Mr. Ira Addis, Diesel Mechanic who was entitled to do this work be compensated four hours under the call rule.

A Stoker Foreman at the Open Hearth renewed a coupler pin.

EMPLOYEES' STATEMENT OF FACTS: Mr. Ira Addis is an employe of the locomotive shop, could do this work and was available for this work.

That a stoker foreman at the open hearth did renew the coupler pin.

That the Railroad Division, Transport Workers Union of America, AFL-CIO does have the bargaining agreement, effective August 29, 1949 and revised September 1, 1955 with the Donora Southern Railroad Company, covering the Maintenance of Equipment Department employes, copies of which are on file with the Board, and hereby made a reference hereto as a part of this statement of facts.

That similar claims have been processed on the property of the carrier and paid by same.

Reference is made to said claims by employes' Exhibits No. 1, 2, 3, 4.

POSITION OF EMPLOYEES: That Mr. Ira Addis is a diesel mechanic and an employe of the Donora Southern Railroad Company and as such was entitled to do the work that was done by the stoker foreman, on January 19, 1957.

POSITION OF CARRIER: The changing of the position of the coupler in order to accomodate the two types of equipment handled by the dinkey is an incidental part of switching the open hearth area. The replacing of the coupler pin when necessary has never been performed exclusively by any particular craft but rather has been done by members of the engine or ground crews, by mechanics, or by industry personnel as in this case. Accordingly, it has never been considered "Maintenance work" as contemplated by Article 10 (d). Under these circumstances the mere fact that the substitution of the coupler pin was done by a "foreman" is of no consequence.

In addition, the dinkey and crew are rented to the industry on a turn basis and their method of operation is supervised by industry personnel. The stoker foreman is not subject to the carrier's jurisdiction or control; and in the absence of an agency or employer-employee relationship the carrier is not accountable for his unauthorized act.

In view of the foregoing, it is respectfully submitted that this claim should be dismissed.

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 employees 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 carrier rents a locomotive with crew to the American Steel and Wire plant at Donora to service the open hearth area on industry tracks. The coupler can be raised or lowered manually by removal and insertion of a coupler pin. That is done by the ground crew or industry personnel. On January 19, 1957 the Stoker Foreman, an industry employe, removed the coupler pin to change the position of the coupler and, since it was bent, inserted a new one, a supply of which are kept on the open hearth floor.

It is undisputed that the coupler pin may be removed and inserted to change the coupler position by others than mechanics, so the question is whether discarding a bent pin and picking up a new one is "maintenance work on Diesel Locomotives" within the meaning of Article 10(d). To pose that question demonstrates the absurdity of the claim. The simple replacement of a bent coupler pin is not maintenance of the locomotive but is an essential part of the operation of a coupler.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of November, 1958.