

Award No. 3062
Docket No. 2570
2-ACL-CM-'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 awarded.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(a) That under the controlling agreement other than Carmen were improperly assigned to inspect and make necessary repairs to A.C.L. Car No. 93135 at Douglas, Georgia on November 27, 1955.

(b) That accordingly the Carrier be ordered to additionally compensate Carman Inspector L. N. Walker for 3 hours at the applicable overtime rate for the aforesaid violation.

EMPLOYEES' STATEMENT OF FACTS: On the night of November 25, 1955, the train crew on Train No. 208 set out ACL Car No. 93135 at Douglas, Georgia account of hot box. Sunday morning, November 27, 1955, A. M. Randolph, car repairer helper, accompanied by shop laborer as driver of shop truck, was sent to Douglas, Georgia to inspect and make necessary repairs and O.K. car for movement to destination or to shops for further repairs as conditions warranted. Helper Randolph rebrassed this car at location R2, examined and inspected other journals and O.K.'d car for movement. Travel time to and from Douglas, Georgia, including time necessary in making inspection and repairs totaled three (3) hours.

Local Train No. 502 picked up car on the afternoon of November 27, 1955 and moved it to Ambrose, Georgia, approximately 12 miles from Douglas, Georgia, where it was set out again account of hot box, same location, R2. On the afternoon of November 28, 1955 Car Inspector H. P. Faulkner, accompanied by shop laborer as driver of the shop truck, was sent to Ambrose, Ga. to brass and repack car. Upon inspection, the car was found to have a cut journal at location R2. It was given special attention, rebrassed, repacked and well oiled and O.K.'d for movement to Fitzgerald, Georgia repair track where wheels were applied at R&L2, after which car moved to destination.

On May 24, 1956, the undersigned wrote Mr. Winters declining the claim and stating in effect that Carman Helper Randolph was sent to Douglas and instructed to brass and repack the box in question; that he was not instructed to make any inspection as alleged and that brassing, packing and oiling boxes had been performed by box packers (helpers) on this property for many, many years.

POSITION OF CARRIER: It is an undisputed fact that carmen helpers have been rebrassing journal boxes on this property for many years. As a matter of fact, a running record is kept on each individual helper at many points showing the number of brasses applied to cars each month, and such records are posted on large blackboards in conspicuous locations. In view of the fact that there is little likelihood that the organization will contest such statements as to the assignment of this work, there is only one contention left with respect to this claim, and that is whether or not Carman Helper Randolph actually made an inspection of this car.

When Randolph left Westwood Shops, he was given **specific instructions** by Foreman M. A. Parks as to the work he was to perform upon arrival at Douglas, a **managerial prerogative** necessary in the supervision of work. Those instructions did not embrace inspection of this car. He was instructed simply—to go to Douglas, rebrass and repack the box at location R-2 and oil all boxes under the car. The agreement contains nothing whatsoever that prohibits a foreman or other supervisory officer from issuing instructions to a carman helper. Randolph carried out those instructions explicitly.

Particular attention is invited to **Awards 1001 and 1032** of this Division. In both cases, **cars were rebrassed at intermediate points on line of road by other than carmen** and in both instances the carmen's organization sought to **force the carriers involved to send carmen from terminals to rebrass cars on line of road.** In both instances this honorable Board declined the claims.

Carrier also wishes to call specific attention to the fact that carmen helpers have been sent for many years to outlying points to rebrass and repack boxes under cars that have been set out for hot boxes. This case and a similar case now pending before this Board involving the same principle are by no means isolated cases. **This is a long-established practice.**

This claim is totally without basis for contention and represents nothing more than an endeavor to make work for two men where there was only work sufficient to necessitate the services of one and thereby shackle the carrier with additional expense. Carmen helpers have performed this work for years and this fact cannot be disputed. Carrier, therefore, respectfully requests this honorable Board to render a denial award in disposing of this claim.

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 claim is that a helper was assigned "to inspect and make necessary repairs" to a car set out of a train at Douglas, Ga. Carrier shows that the

helper was simply instructed to rebrass the journal at R-2 and oil other boxes. The employes state that they "are unable to positively affirm or deny the correctness thereof". Thus, it must be accepted as true.

Rebrassing journals is not specified as carmen's work in Rule 402 and the Carrier has shown that for many years it has been recognized as helper's work. The employes show some paid claims in an attempt to refute that showing, but it appears that in each case something more than rebrassing was involved, usually some inspection which is admittedly mechanic's work. Under such circumstances, the claim is not supported by the rule and cannot be sustained.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December, 1958.

DISSENT OF LABOR MEMBERS TO AWARDS 3062 AND 3063

The ability or inability of the employes' representatives to deny or affirm the carrier's instructions to the helper has no bearing on the instant disputes since a carman should have been used to perform the work. In the instant cases a helper was substituted for a carman. Under Rule 27(e) "Helpers when used in any way in connection with mechanics' work shall in all cases work under the orders of the mechanic . . ."

It is apparent that the majority does not understand what constitutes rebrassing of cars set out on line of road on account of a hot box. Such rebrassing involves the jacking of the journal box high enough to remove the journal bearing wedge and journal bearing brass, inspecting of the box, inspecting of the journal, inspecting of the journal bearing wedge and inspecting of the journal bearing brass to determine whether one or all are defective. It must have been determined that the journal bearing brass in each of the instant hot boxes was defective inasmuch as new journal bearing brasses were applied.

All the foregoing work constitutes "Maintaining and inspecting of cars," which is defined in Rule 402 as being carmen's work. The current schedule agreement between this Carrier and System Federation No. 42 embodies and preserves the rates of pay, rules, and working conditions of the carmen and carmen helpers and stands as a protest against a repetition of the errors in Awards 3062 and 3063.

/s/ James B. Zink

/s/ R. W. Blake

/s/ Charles E. Goodlin

/s/ T. E. Losey

/s/ Edward W. Wiesner