

Award No. 3256

Docket No. 3039

2-RDG-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Roscoe G. Hornbeck when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 109, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

READING COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement Car Inspectors Robert McGuire, Carl Seegar and Mario DiMascio on February 9, 1957 were improperly denied their rights to perform work at Fairhill Junction.

2. That accordingly the Carrier be ordered to make these employes, Robert McGuire, Carl Seegar and Mario DiMascio whole by compensating them each four (4) hours at the punitive rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Robert McGuire, Carl Seegar and Mario DiMascio, hereinafter referred to as the claimants, are regularly employed at Belmont Yard, one of the points on the City Branch Roster, Philadelphia, Pennsylvania, of which, Fairhill Junction is a part. This confirmed by copies of rosters for the years 1952, 1953, 1954 and 1955 which are submitted as Exhibits A, B, C and D. These claimants have established seniority on the City Branch Roster.

On February 9, 1957, the carrier management sent three (3) car inspectors from the Port Richmond Yard, Philadelphia, Pennsylvania, a separate seniority district, to Fairhill Junction, a separate seniority district from Port Richmond Yard, to perform work assignable to car inspectors who hold seniority on the City Branch roster, of which, Fairhill Junction is a part.

The car inspectors, imported to Fairhill Junction, from the Port Richmond Yard, hold seniority only at Port Richmond Yard. They are assigned to the third shift at Port Richmond Yard, were moved to Fairhill Junction

were on duty at the time at Port Richmond to remove coupler key and allow coupler and draft gear to drop to track and then move same clear of track, thus permitting resumption of operations and movement of cars, including the movement of damaged car and several others to Port Richmond for repairs. These car inspectors only performed such service as necessary to clear the track and did not make any repairs to the car at the time.

In the handling and discussion of this case on the property it was the contention of the Brotherhood of Railway Carmen that claimants hold seniority on what is known as the City Branch roster and that claimants should have been called and used to perform service at Fairhill Junction as outlined hereinbefore, rather than the car inspectors at Port Richmond. With respect to which, carrier submits that years ago when car inspectors were maintained at Fairhill Junction they held seniority on the City Branch roster. However, no car inspectors were maintained or assigned at Fairhill Junction on the date of this occurrence or for several years prior thereto.

Due to the emergency and necessity of restoring track to service the usual and normal operations, it was necessary to remove the drawhead and draft gear from the track, which in carrier's opinion was service that could have been performed by employes other than of the carmen's craft. However, as car inspectors were on duty at Port Richmond in close proximity of Fairhill Junction, they were used to remove drawhead and draft gear from CNW 106104 and this car along with several others were subsequently moved into Port Richmond for repairs.

Carrier reserves the right to assign available employes to perform emergency work as in the instant case and submits that the assignment of emergency work and payment of employes so assigned is provided for in Rule 10 of the Shop Crafts agreement, particularly the first paragraph thereof reading as follows:

"An employe regularly assigned to work at a shop, engine house, repair track or inspection point, when called for emergency road work away from such shop, engine house, repair track or inspection point, will be paid from time called to leave home station, until his return for all time worked in accordance with the practice at home station, and will be paid straight time rate for straight time hours and overtime rate for overtime hours; except, all time waiting or traveling will be paid for at the straight time rate."

Under the facts and circumstances outlined hereinbefore, carrier maintains the use of car inspectors from Port Richmond to perform emergency service at Fairhill Junction was not improper or in violation of rules governing carmen, therefore, the claim as here submitted by the Brotherhood of Railway Carmen is without merit or justification and carrier requests the Board to so find and deny same.

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.

Parties to said dispute were given due notice of hearing thereon.

On February 9, 1957, claimants were regularly employed as car inspectors at Belmont Yard, a point on the City Branch roster at Philadelphia, of which Fairhill Junction is a part.

Claimants had seniority on the City Branch roster. The freight car involved because of the condition of the draw head and draft gear, obviously had to be, and was, repaired which work properly belonged to carmen.

In the situation thus developed the work of removing the draw head and draft gear consisted, in part, of "maintaining" a freight car within the contemplation of Rule 108 of the applicable agreement.

This work the claimant had the right to perform.

AWARD

Claim allowed for 4 hours at pro rata rate of pay.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1959.