

Award No. 3334

Docket No. 3116

2-B&O-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the current agreement when they assigned 7 Carmen and 1 Carman Helper to pick up cross ties and an end gate which were shifted out of B. & O. 350938 in transportation yards at consolidated yard "A" Cincinnati, Ohio May 25, 1957 and reload them in car.

2. That accordingly the Carrier be ordered to additionally compensate Carmen H. D. Race, Sr., A. D. Monk, L. J. Patradge, J. Straub, K. G. Alsup, C. D. Lambert, J. Dusing and Carman Helper J. Smith, for a call, or 4 hours at their pro rata hourly rate.

EMPLOYES' STATEMENT OF FACTS: The Baltimore & Ohio Railroad Company, hereinafter referred to as the carrier, maintains car shop repair tracks at Consolidated Yard "A" at Cincinnati, Ohio wherein they employ carmen and helpers. On May 25, 1957 ten (10) cross ties and an end gate shifted out of B. & O. Car #350938 on to the ground in the transportation yards while being shifted. Between 8 and 9 o'clock on the morning of May 25, 1957 the car foreman ordered and required Carmen H. D. Race, Sr., A. D. Monk, L. J. Patradge, J. Straub, K. G. Alsup, C. D. Lambert, J. Dusing and Carman Helper J. Smith, hereinafter referred to as the claimants, to go to the section house and get a track push car and take it down the switch lead to track #14, load the cross ties and end gate on the push car then take same up track #14 and the lead track onto track #18 and reload the ties and end gate back into B. & O. 350938.

This dispute has been handled with all carrier officers designated to handle such disputes including the highest designated officer of the carrier, all of who have declined to make satisfactory adjustment.

cars taken from trains to repair tracks, except when there is not sufficient work in train yards to fully occupy their time."

There is no such restriction in the case of the claimants here. The claimants were certainly not "assigned to follow inspectors in yards."

Observe Rule 144 that reads "Inspectors and **other carmen in train yards** will not be required to take record, for conducting transportation purposes, of seals, commodities, or destination of cars." (Emphasis added).

Rule 152 reads "**Shops, repair yards, and train yards where carmen are employed**, shall be kept clean of all rubbish." (Emphasis added).

The conclusion is unmistakable that carmen and helpers are permitted to work in "train yards", and apart from the exception stipulated in Rule 145, with complete propriety and impunity even though equipment may be taken from the train yard to the repair track for service. This is not devious reasoning. It is standard and accepted operating practice on this property.

The carrier is at a loss to understand why the carmen's committee would come before this Board with an argument that under the rules agreement and practices thereunder carmen and carmen helpers would not be permitted to perform this kind of work under the circumstances described in this record. To advance an argument that the carmen's craft special rules prohibit the carrier from requiring carmen and their helpers to do this type of work would be to read into the working agreement restrictions that simply do not appear in that agreement.

The claimants in this case, the carmen and the carman helper, were properly required to do this work in the course of their assigned tour of duty. They have often done such work in the past.

The carrier respectfully requests that this Division so hold and that this claim in its entirety be denied.

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.

A gondola car containing cross ties was damaged while being shifted on Track 14 in the transportation yard (Yard A) at Cincinnati. The end gate collapsed and fell to the ground, along with some of the ties. A yard engine then moved the damaged car to the repair track, which is located about four tracks away from Track 14. Said repair track is under the jurisdiction of the Car Department. When the necessary repair work was about to begin, seven carmen and one carman helper were sent to bring the damaged end gate and the fallen cross ties from Track 14 to the repair track. They handled these items on a small push car. After the repairs were made, Car Depart-

ment forces replaced the end gate on the gondola and reloaded the ties. Claim is made that the Carrier violated Rule 138 (Classification of Work) of the subject Agreement when it required the above-indicated employes to deliver the damaged end gate and the cross ties from Track 14 to the repair track.

The facts disclose that the work complained of was incidental to the car repair duties properly assigned to carmen. We find nothing in the controlling Agreement restricting the right of the Carrier to require the disputed work to be performed by carmen under the circumstances here shown.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 16th day of October, 1959.