

Award No. 3454
Docket No. 3428
2-P&LE-TWUOA-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION
OF AMERICA, A. F. of L.—C. I. O.**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY AND
THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

At Glassport the employees are now being required to drive a truck. This is not a part of any Car Inspector's work.

Since this is not part of car inspectors duties the Organization requests that Leo Stearns and Stanley J. Sydeski be compensated eight (8) hours for each of the following days for driving the truck used to move them from point to point.

Leo Stearns — April 28, 29, 30, May 1, 1958
S. J. Sydeski — April 26, 27, May 3, 4, 1958

EMPLOYEES' STATEMENT OF FACTS: This case arose at Glassport, Pa., and is known as Case G-26.

Car inspectors are now required to drive a truck from one point to another to perform their work.

Car inspectors cannot bid certain jobs unless they can drive the truck or they are not awarded these certain jobs.

Qualified car inspectors who have never driven a car cannot bid on all jobs as these jobs are not awarded to them.

Nowhere in the agreement is there a rule that requires car inspectors to drive a truck to do their work.

That the Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective May 1, 1948 and revised

railroads servicing other plants of the Bethlehem Steel Company who receive no additional compensation for use of the radio telephone and who ask for none and (2) the further fact that so far as appears from the record here made of all the railroads in the country using radio telephones, only one (and that one under seemingly special circumstances) has any agreement requiring additional compensation to trainmen using the radio telephone, it is apparent that this Board has no alternative but to find that the request of the Brotherhood should be denied.

AWARD

Upon full consideration of the whole record the Board of Arbitration finds that the request of the Brotherhood that 'All crews who are compelled to answer the radio telephone and take orders over same are to receive an additional \$2.00 per day per man' should be denied."

CONCLUSION: The carrier has conclusively shown that nothing in the carmen's agreement prohibits the carrier from requiring car inspectors to drive a company-owned truck to various points within their seniority district in the performance of their work; nor is there any rule which provides for the penalty sought by the employees. Further, the carrier has shown that the claim has been progressed by the employees in violation of a moratorium set up under the provisions of the Railway Labor Act. In addition, the claim is a virtual request on the part of the employees to have the Board — by means of a sustaining award — establish a new rule, in the absence of an existing one which would support the claims as presented — which is outside and beyond the jurisdiction of the Board to do.

Several Awards of the National Railroad Adjustment Board as well as Special Board of Adjustment No. 121 and Arbitration Board No. 226, Case No. A-5360 have been cited herein in support of the carrier's position that the instant claim has been improperly progressed, is without merit and should 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 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.

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

The organization contends in the instant claim that Leo Stearns and S. J. Sydeski be compensated for driving a truck to and from points to do their inspection work. It is their contention that the existing agreement does not require them to perform this service and they are, therefore, entitled to an additional eight (8) hours compensation over and above their regular pay as carmen for these services.

We are unable to find any rule in the agreement that sustains the Organization's contention. The classification of work rule (25) has no provision

that prohibits carmen from driving trucks. It is our opinion that the Carrier has the right to improve its operation and may introduce new and more efficient practices so long as they do not violate the agreement. The use of trucks to expedite carmen from one location to another in performing their assignment is not a violation of the current agreement. We do not agree with the Organization that the driver (carmen) would be entitled to additional compensation for this service as it is a part of his regular assignment.

This Division decided similar issues between the same parties in Award No. 3040.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of April, 1960.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3454

In Award 3454 (Docket 3428) the majority has in a ridiculous and absurd manner subverted the controlling agreement.

The award reads in part, "The classification of work rule (25) has no provision that prohibits carmen from driving trucks." Then the majority proceeds with this negative approach to condone, in the instant case, the imposition as a condition of employment that which is subject to negotiations on the property as provided in the Railway Labor Act, Section 2 (7). We dissent.

R. W. Blake

Charles E. Goodlin

T. E. Losey

Edward W. Wiesner

James B. Zink