

**Award No. 3523**

**Docket No. 3368**

**2-RDG-CM-'60**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when award was rendered.

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**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 the Carrier has improperly assigned the operation of a so-called "Twin Vise Recorder" to the employes of the Order of Railroad Telegraphers, Weston-Manville Tower, New Jersey.

2 — That accordingly the Carrier be ordered to pay each of the following, in a rotating manner, 8 hours at time and one-half rate of pay, per shift, 3 shifts per day, since June 13, 1957:

Geo. J. Gondola  
M. N. Melnichock  
W. Cherescavich  
E. Vaigili  
B. Barbato  
C. Barbato

S. Szymborski  
J. F. Ottaviano  
J. D. Guiseppi  
C. Cmil, Jr.  
C. Simpson  
P. Mekula

M. Daniels  
G. Varjak  
D. Balajthy  
F. Barburak  
R. Strausser

**EMPLOYEES' STATEMENT OF FACTS:** On or about June 13, 1957, the carrier had installed a "Servosafe Hot Box Detective" at Weston-Manville, New Jersey.

As a part of this electronic device installed as above described, there is attached to same, by means of wiring, the Servosafe recording unit. This part of the installation was placed in the tower at Weston-Manville, for the observation of the towermen when trains pass over the track mechanism, in order for them to observe and report defects as detected by the track mechanism and simultaneously recorded on the recorder. As the trains pass over this device, the heat from the journal boxes is registered, or recorded, on a graph tape in the tower which reflects whether there is evidence of a hot box.

Prior to the installation of the "Servosafe Hot Box Detectives" carmen, in connection with the inspection of passenger and freight cars in trains, inspected journal boxes to determine whether or not there were hot boxes or any defects which might cause hot boxes. The recommended manner for inbound and out-

plated. It is, therefore, clear that such work was not discussed or considered during the conference and negotiations that led up to the adoption of such rules. In the light of these facts, carrier maintains that work here sought is not covered by rules of agreement nor was it ever intended that such work would belong to the employes covered by the shop crafts agreement.

Carrier submits that to say that the present agreement between the parties covers the work which the organization here seeks would require the Board to act contrary to its sole function. Under the Railway Labor Act, the National Railroad Adjustment Board, Second Division, is required to give effect to the applicable agreement and to decide the present dispute in accordance therewith. The Board itself has recognized that it is not empowered to write new rules or amend existing rules. Since it is apparent that carrier has not negotiated the work in question to any class or craft of employes, carrier submits that it is free to act with respect thereto in any manner it deems advisable. The Board has consistently recognized the principle that, except insofar as it has restricted itself by the collective bargaining agreement or as it may be limited by law, the assignment of work necessary for its operation lies within the carrier's discretion.

Carrier further maintains that its decision to have the graph here involved read by towermen is a reasonable and normal exercise of managerial judgment. As has been pointed out hereinbefore, towermen as well as other classes of employes normally observe all trains moving over the road and give necessary signals to such trains at locations along carrier's right of way where no hot box detector machines are located. Therefore, the work of reading the graph is a substitute for wayside observation of passing trains and in carrier's opinion is properly and reasonably assignable to employes represented by The Order of Railroad Telegraphers.

Part 2 of the organization's claim is a request that carrier be required to compensate designated employes at punitive rate for eight hours around the clock continuing from June 13, 1957. This, in carrier's opinion, would be an unnecessary and unwarranted penalty payment which is directly opposed to carrier's managerial and statutory responsibility of operating efficiently and economically in the interests of its patrons and has no basis under carrier's agreement with the carmen's organization.

For reasons set forth hereinbefore, the carrier requests the Board not to assume jurisdiction in this dispute but to dismiss same. However, should the Board assume jurisdiction, it is carrier's position that the organization's claim is, under the facts and circumstances surrounding this case, unwarranted and without merit and carrier respectfully requests that the claim be denied in its entirety.

**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.

Carrier installed Hot Box Detector machines along its right of way which transmitted information as to the relative heat of the journal boxes on the cars

of passing trains to recording devices placed in towers located near the machines. Towermen as incidental to their other duties were instructed to watch the recorder as trains passed by and in case of a hot journal to have the train stopped and notice given of the journal involved.

The Organization asserts that carmen have the exclusive right to inspect passing trains for hot boxes, but even if so that does not justify the claim. The towermen were not required to inspect the train; that service was performed by the detector machines. The towermen were not required to operate those machines; the machines were automatic. The towermen only received the information imparted to them by the machines and gave proper signal indications dependent on the information received. That was not carmens' work.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois this 29th day of July 1960.

#### DISSENT OF LABOR MEMBERS TO AWARDS 3523 AND 3524

Prior to the installation of the detector machines carmen inspected journal boxes of passenger and freight trains to determine whether or not there were hot boxes or any defects which might cause hot boxes. Rule 108 of the controlling agreement is a specific scope rule and without exception includes the work of inspecting all passenger and freight cars. What kind of machine is used to detect defects in car journals is of concern only to the carrier but, under the scope of Rule 108, carmen are entitled to take the readings from the machines detecting the defects detected by carmen prior to installation of the machine.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink