

Award No. 3677
Docket No. 3489
2-GM&O-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 29, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO. (Carmen)

GULF, MOBILE & OHIO RAILROAD COMPANY
(NORTHERN REGION)

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier improperly assigned other than Carmen Painters to paint cabooses at Roodhouse, Illinois.

2. That the Carrier be ordered to make the Carmen Painters whole by compensating furloughed Carmen Painters L. J. Waggoner and P. C. Ploense for the number of hours worked by regular Carmen in painting these cabooses as follows:

L. J. Waggoner — eight hours straight time rate for each day, January 3-6-7-8-9-10-13-14-15-16-20-21-22-23-24, 1958; four hours at time and one-half rate for each day, January 13-14-15, 1958; one hour at time and one-half rate for January 20, 1958; five hours at time and one-half rate for each day, 21-22-23-24, 1958; seventy hours at straight time rate for painting done by the freight Carmen March 4th through March 27, 1958.

P. C. Ploense — eight hours straight time rate for each day, January 3-6-7-8-9-10, 1958; seventy hours at straight time rate for painting done by the freight Carmen March 4th through March 27, 1958.

EMPLOYEES' STATEMENT OF FACTS: At Roodhouse, Illinois, the Gulf, Mobile and Ohio Railroad, hereinafter referred to as the carrier, maintains a repair track where freight carmen, apprentices and helpers are employed.

On date of January 3, 1958, GM&O Cabooses Nos. 2704, 2712 and 2715 were placed on the repair tracks to be painted by the freight carmen. Carmen Reagor painted on these cabooses eight hours each day, January 3, 6, 7, 8, 9, 10, 13, 14, 15, and five hours January 16, 1958. Carmen Hammett painted eight

The instant claims made are for 341 hours, some of which are for time and one-half time, and even if the claims had merit (which they do not) they would be excessive as carrier's record shows that an average of 19 man-hours were used in painting each of these caboose cars. On account of General Chairman Wheeler's contention in conference to the effect that it takes from 28 to 40 man-hours to paint a caboose car, carrier had an accurate check made of the time used in painting Caboose car 2757 at Bloomington, Ill., in August 1958, and this check showed 16 man-hours were necessary; the work being performed by painter, painter apprentice and painter helper. Carrier calls attention that freight carmen required approximately three more man-hours per caboose car than that used when painters did the work and which is readily understandable.

Carrier contends that Article VII of the August 21, 1954 agreement, which became effective November 1, 1954, clearly permits freight carmen at Roodhouse to perform the work of painting caboose cars here involved and prays your Board to so decide.

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.

At Roodhouse, where no carmen painters are regularly employed, six cabooses were painted during January and March, 1958, by other carmen, involving a total of from 114 to 140 hours of work, according to conflicting evidence, or a total of from 14¼ to 17½ days. No other painting is shown to have been done there during 1957 or 1958.

The claim is on behalf of two furloughed painters at Bloomington, another seniority district, who would have been entitled to request transfer if the work had been bulletined.

The Carrier contends that the work was properly done under Article VII of the National Agreement of August 21, 1954, which provides as follows:

"At points where there is not sufficient work to justify employing a mechanic of each craft the mechanic or mechanics employed at such points will, so far as they are capable of doing so, perform the work of any craft that it may be necessary to have performed."

That rule was adopted pursuant to the report of Emergency Board 106 relative to the Carriers' Proposal Number 23 as follows:

"Establish a rule or amend existing rules so as to permit the Carriers to require mechanics who are on duty, at points or on shifts where mechanics of all crafts are not on duty, to perform the work contained in the classification of work rules of a craft or class that does not at the time have a mechanic on duty."

The Emergency Board said:

“The intention of this rule is to secure a relaxation of the strict work classification rules applicable to shop craft employes to accord realistically with present-day operational requirements.”

It will be noted that the Emergency Board considered the proposal too sweeping for the purpose, and therefore limited its application to “points where there is not sufficient work to justify employing a mechanic of each craft.” In other words, if in general there is enough painting work at Roodhouse to justify the regular employment of a painter, the Carrier should employ one there; but if not, it should be entitled to have the work performed by other mechanics.

The evidence shows only 14¼ to 17½ days’ painting work at Roodhouse and is insufficient to establish justification for the employment of a painter at that point.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February 1961.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3677

The rights of carmen painters subject to the controlling agreement were violated when other than carmen painters were used to do the instant painting. The very fact that the majority concedes that the evidence shows there was 14¼ to 17½ days’ painting work at Roodhouse is, in our opinion, sufficient to establish justification for the employment of painters to perform the work and the claimant furloughed carmen painters were entitled to compensation for that amount of time.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink