Award No. 3687
Docket No. 3408
2-C&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. 41, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. - C. I. O. (Carmen)

THE CHESAPEAKE AND OHIO RAILWAY COMPANY (SOUTHERN REGION AND HOCKING DIVISION)

DISPUTE: CLAIM OF EMPLOYES: 1. That the Carrier violated the current agreement when, on January 8, 1958, it assigned other than Carmen to observe and to relay information indicated by detector devices at its Russell, Kentucky manifest yard.

2. That the Carrier be ordered to assign Carmen to observe and relay information indicated by these devices.

3. That furloughed Carmen Russell Wireman, Hearl Daniels, Jessie Howard, Glendon P. Stanley and James E. Christian are entitled to be paid eight (8) hours each at the straight time rate five days per week subsequent to January 7, 1958 until the violation is corrected.

EMPLOYES' STATEMENT OF FACTS: On January 8, 1958 the carrier opened a new manifest yard at Russell, Kentucky.

At the time this new yard was opened, two detector devices were placed in operation at the hump approach tracks; one dectector indicates low or dragging objects on cars, and the other indicates broken wheel flanges, low or dragging objects or a broken wheel flange are indicated by lights appearing on a panel board located in the hump conductor's office. When one of these lights appear, the hump conductor, who is either a yard brakeman or switchman, notifies the car inspectors in the inspection pit to be on the alert for broken flanges or dragging objects such as the case may be. These devices are operated twenty-four hours each day, seven days per week,

This dispute has been handled with all carrier officers designated to handle such disputes, up to and including the highest designated officer of the carrier, with the result that he has declined to make any adjustment.

The agreement effective July 21, 1921 as subsequently amended is controlling.

a small percentage of the cars giving indications via the detectors are actually shopped. No cars are shopped by anyone other than car inspectors.

It is clearly evident that the detectors have not deprived the carmen of any work. Were the detectors to be removed from service, no additional carmen would be assigned, nor would there be any change in the responsibilities or duties of the present car inspector force.

The employes cite Rule 154 of the shop crafts agreement as having been violated by the carrier. Rule 154 is the carmen's classification of work rule and provides that the inspecting of cars is carmen's work. The rule does not, however, prohibit the use of any type of mechanical or electronic device in connection with the inspection of cars. The claim by the employes that the carrier has violated Rule 154 or any part thereof is entirely without foundation or justification.

On March 2, 1955, a broken flange detector was placed in operation at Stevens, Kentucky, approximately 128 miles west of Russell which point is covered by the same shop crafts agreement. The broken flange detector at Stevens is similar to the one at Russell and is used in the same manner. The Stevens detector has now been in operation for approximately four years and carrier has received no claim of any kind from the carmen craft involving the use of this detector. If the employes actually felt that their contractual rights were being violated by the installation and use of detectors, it is certainly reasonable to assume that something would have been heard from them as a result of the Stevens installation in 1955. The absence of any claim or protest on the part of the employes acknowledges the correctness of the carrier's position that there has been no violation of the agreement rules covering the rights of carmen.

It has been clearly shown that the claim of the employes is without justification and the carrier urges 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.

In its response to the Employes' Ex Parte Submission the Carrier states:

> "Rule 154 is the Carmen's Classification of Work rule and provides that the inspecting of cars is carmen's work. The rule does not, however, prohibit the use of any type of mechanical or electronic device in connection with the inspection of cars."

It follows that these devices in aid of inspection should be used by carmen rather than by the hump conductor, which is the essence of parts 1 and 2 of the claim.

The Organization alleges that these devices eliminated some car in-

spection work and caused layoffs. The Carrier denies that allegation and the record affords no evidence from which this Board can resolve this issue of fact.

However, the record shows that these devices supply special warnings for car inspectors in the pit who must still find defects, identify defective cars, and notify the hump conductor, who then relines switches to send them to repair tracks. Thus the devices are not substitutes for, but adjuncts to inspection work.

AWARD

Parts 1 and 2 of the Claim are sustained; part 3 is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois this 27th day of February, 1961.

DISSENT OF CARRIER MEMBERS TO AWARD 3687

This claim arose as result of the installation of automatic mechanical-electrical warning devices installed on the approach track to the apex of the hump and some distance in front of the inspection pit. One device is for the purpose of detecting broken flanges on car wheels, and the other device is for detecting dragging objects on cars. When either or both devices are tripped, a warning bell rings and a warning light flashes on the hump tower control console board operated by a hump conductor, thereby alerting the conductor who then speaks into a mike attached to a sound system with a speaker in the inspector's pit. The conductor tells the car inspector the warning device has been tripped. The conductor does not and cannot tell the inspector the car number, the car location in the train, or the location on the car of the dragging object or the broken flange. This is not an inspection. This is not an infringement of Rule 154. The car inspector's work is not reduced, and the car which tripped the device will be inspected by the car inspector, and it is the car inspector who advises the hump tower conductor what car requires repair track service.

The warning bell and warning light are built into the console panel just as the many other lights and control levers which make possible the operation by a conductor of an electronically controlled yard operation.

This erroneous decision becomes a step backward and further adds to the Carrier's problems in its effort to give better and more modern up-to-date service to the public in its struggle for business and survival.

It is clear from a reading of this award that the majority failed to realize that the hump conductor does not start or stop the warning devices and the passing of the information by the hump conductor to the car inspector in the pit is merely incidental to his work, and that the car inspector is in no manner relieved of any of his work.

Referee Stone in rendering his decision in Second Division Awards 3523 and 3524 wrote:

"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 carmen's work."

Referee Watrous in rendering his decision in Second Division Award 3601 wrote:

"The organization contended that the operation of this electronic device and reading of the tape to detect overheating of the journals is inspection within the intent and meaning of the provisions of rule 154, Carmen's classification of work, of the controlling agreement.

It is the opinion of the Board that the Hot Box Detector functions as a tool to increase the efficiency of the telegraphers traditional duty of warning the crews of passing trains of hot journal boxes and when so used does not encroach upon Carmen's work of inspection, maintenance or repair. The Carrier did not violate rule 154 of the agreement."

Referee Mitchell in rendering his decision in Second Division Award 3745 wrote:

"The observation made by the train crew could in no manner be considered similar to the mechanical inspection and repairs made by the Car Inspectors of the Carmen craft.

All that the train crew is required to do when train is stopped is to observe the train, there is no evidence that any work was performed.

There has been no encroachment of the duties of the Carmen, and thus no violation of the Agreement."

Second Division Awards 3523, 3524, 3601, and 3745 are in point, and the reasoning used in rendering the decision in the instant dispute is contra to the reasons set forth in these awards.

We believe the majority is in error in sustaining the Employes' position in this docket.

For the reasons herein offered, the Carrier Members dissent.

P. R. Humphreys
H. K. Hagerman
D. H. Hicks
W. B. Jones
T. F. Strunck