

**Award No. 3745**

**Docket No. 3598**

**2-L&N-CM-'61**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

**LOUISVILLE & NASHVILLE RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:**

- 1—That the Carrier violated the current agreement on July 5, 1958 and subsequent thereto in assigning other than carmen to perform the duties of inspecting.
- 2—That accordingly the Carrier be ordered to assign the work of inspecting cars and trains to carmen and
- 3—Additionally compensate carmen for all time consumed by others inspecting cars and trains subsequent to July 5, 1958.

**EMPLOYES STATEMENT OF FACTS:** On July 5, 1958 and subsequent thereto, the carrier established many inspection points throughout the system, assigning train and engine crews to duties of inspecting cars and trains.

At all terminals and inspection points where carmen are employed as inspectors the inspection of cars and trains have been curtailed, with car inspectors restrained from making proper inspection and in many cases no inspection whatsoever is permitted.

This case has been handled repeatedly with the proper officers of the carrier both by correspondence and conferences, without a satisfactory conclusion.

The agreement of September 1, 1943 as subsequently amended is controlling.

**POSITION OF EMPLOYES:** It is submitted that the carrier violated the terms of the carmen's special rules of the federated agreement, particularly that portion of Rule 104, reading—

**"Carmen's work shall consist of . . . inspecting all passenger and**

There has been no encroachment on the duties of the carmen, therefore, as there has been no violation of the agreement, the claim 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 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.

It is the claim of the Employees that the Carrier established many inspection points throughout the System assigning train and engine crews to duties of inspecting cars and trains in violation of Rule 104 of the Federated Agreement, particularly that portion of Rule 104 reading "Carmen's work shall consist of . . . inspecting all passenger and freight cars, both wood and steel, . . . inspection work in connection with air brake equipment on freight cars; . . .; joint car inspectors, car inspectors, safety appliance and train car repairers, . . . and all other work generally recognized as carmen's work," by establishing inspection points at certain places along the right of way, where stops were made by the trains.

It is the claim of the Carrier that it had a large number of hot boxes, that some of them occurred a short distance out of the terminals, where just shortly before car inspectors had inspected the train. That for this reason Carrier issued instructions, that train and engine crews, in accordance with the Transportation Rules maintain close observation of their trains, and that the trains be stopped at certain places, set out in Carrier's instructions, where a visual inspection would be made by the train crew.

Rule 857 of the Rules of the Transportation Department effective July 1, 1933 provides:

"Conductors must inspect the running gear and brake and draft rigging of cars in their trains while on the road as often as their other duties will permit, requiring their trainmen to assist them in doing so.

"Cars picked up at intermediate points must be carefully examined.

"They must use the utmost care to prevent the heating of journals. Any box showing a tendency to heat must receive immediate attention and report Form 438 submitted at end of run to cover.

"They must care for all broken or damaged parts of cars in their trains, and as far as practicable, all such material must be delivered to proper person designated to receive it.

"While on the road, they must report on prescribed form the use of materials, such as knuckles, knuckle locks, knuckle pins, air-brake hose, hose gaskets, journal bearings, etc., and must exercise

care to report the correct initials and number of car; also the location on car to which material is applied."

Since this rule has been a part of the Transportation Department for better than 18 years, it is apparent that train crews have for many years been making the type of inspection involved in this dispute. 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.

#### AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

#### DISSENT OF LABOR MEMBERS TO AWARD NO. 3745

The fact that the carrier issued instructions that train and engine crews, in accordance with the Transportation Rules, make visual inspection of trains stopped at certain places set out in carrier's instructions refutes the finding of the majority that the train crews for the past 18 years have been making the type of inspecting involved in this dispute. It is apparent that prior to the issuing of these instructions such inspecting was performed by car inspectors. Thus, contrary to the findings of the majority, the use of the train crew encroached the duties of the carmen in violation of the controlling agreement between this carrier and System Federation No. 91.

Edward W. Wiesner  
R. W. Blake  
C. E. Goodlin  
T. E. Losey  
James B. Zink