Award No. 4145
Docket No. 3862
2-IHB-CM-'63

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. 103, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. — C. I. O. (Carmen)

INDIANA HARBOR BELT RAILROAD

DISPUTE: CLAIM OF EMPLOYES:

1. That under the controlling agreement, the Carrier improperly transferred the work of coupling air hose and testing air in train yard at Blue Island, Illinois to Switchmen.

2. That the Carrier be ordered to restore such work to Carmen.

3. That furloughed Carman G. E. Mandelkow be compensated for 8 hours per day five days per week for all time lost retroactive to December 22, 1957 and all other carmen who have been affected by this move be compensated accordingly.

EMPLOYES' STATEMENT OF FACTS: There is an agreement which reads as follows:

"Agreement
between
Indiana Harbor Belt Railroad
Chicago River and Indiana Railroad
and all that class of employes represented by

1. International Association of Machinists.

2. International Brotherhood of Boilermakers Iron Ship Builders of America.

3. International Brotherhood of Blacksmiths, Drop Forgers and Helpers.

4. Sheet Metal Workers International Association.

2. Carmen's Rule 154 is not violated when trainmen couple air hose and make air tests; and

3. Continuance of the second shift carman's position was not justifiable.

therefore, the claim in the instant dispute is wholly without merit and should 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.

The Old Blue Island Yard is not a repair facility, and the work of coupling and uncoupling air hose and testing air there is purely incidental to switching operations. When repairs become necessary there for the movement of a car, carmen are sent out from Blue Island Yard, a part of the same seniority district, to perform minor repairs sufficient to permit its movement to the latter yard for more extensive repairs by carmen.

In general, in the absence of specific agreement, the work of coupling and uncoupling air hose and testing air has been held exclusively reserved to carmen only when performed as an incident to their regular maintenance and repair duties and inspection incident thereto. Awards 32 (without a referee), 457, 1333, 1370, 1372, 1554, 1626, 1627, 1636, 1838, 2253, 3091, 3335, 3340, 3593, 3652, 3714, 3745, 3758 and others. See also Cheney Award of August 1, 1951, and Shipley v. P. & L. E. R.R. Co., 83 F. Suppl. 722, therein cited.

The claimants cite a number of instances in which similar claims were granted, without showing the full circumstances. The carrier cites instances of denials of such claims, also without detailing the full circumstances, but showing that air hose coupling and air testing was not recognized as exclusively carmen's work.

In Award 1626, where the claimants likewise relied upon instances of claim settlements by the carrier's officers in support of their claims of exclusive right to couple and uncouple air hoses, this Division said:

> "Nowhere do we find evidence of any intent on the part of the carrier to give the work of coupling and uncoupling air hose exclusively to carmen. We adhere to the principle announced in a long line of awards by this Division that the coupling and uncoupling of air hose is the exclusive work of carmen only where it is in-

cidental to the making of inspections and repairs, unless the rule is enlarged by special agreement."

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February, 1963.

DISSENT OF LABOR MEMBERS TO AWARDS Nos. 4145, 4146, 4147

A reading of the Cheney Award and Shipley v. P. & L.E. R.R. Co., will readily reveal that they are inapposite. The pertinent Court cases are Virginian Ry. Co. v. System Federation No. 40, 57 S. Ct. 592 and Order of R. R. Telegraphers vs. Railway Express Agency, 64 S. Ct. 585.

The majority in quoting an excerpt from Award 1626 to support the present findings seemingly overlook that part of the quote reading ". . . unless the rule is enlarged by special agreement." That there was a special agreement in the instant case is shown by letter of February 6, 1946, addressed to the General Chairman of the Carmen by the Superintendent of Equipment, in which it is stated:

> ". . . I have hereby agreed that we will . . . perform the work at both locations, namely Old Blue Island Yard and LaGrange, with I.H.B.R.R. Carmen forces.
>
> . . . we will therefore agree . . . to comply with the agreement enacted here this A. M. . . ."

The awards cited by the majority show a lack of evaluation of Second Division awards. In Award 1372 on the New York Central Railroad, of which the Indiana Harbor Belt Railroad and the Chicago River and Indiana Railroad are subsidiaries, the parties there, as here, by settlement reached on the property by those in authority to settle such claims, decided that the nature of the instant work was carmen's work and the majority should have so held here.

C. E. Bagwell
T. E. Losey
E. J. McDermott
Robert E. Stenzinger
James B. Zink