

Award No. 4216
Docket No. 4124
2-IHB-CM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald 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 the Carrier violated the Controlling Agreement on August 2, 1959 when they abolished the Carmen's positions one regular and one relief man from 3:00 P. M. to 11:00 P. M. at Elsdon, Illinois, and transferred their work of inspecting cars, coupling air hose, testing air brakes and the bleeding of air from cars to the Trainmen and/or Switchmen.

2. That the Carrier be ordered to restore this work to the Carmen's craft, and that these carmen who were furloughed, namely Messrs. Kenneth Wasson and Charles Santora, be compensated for all time lost.

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

**SYSTEM FEDERATION NO. 103
RAILWAY EMPLOYES DEPARTMENT
A. F. of L. MECHANICAL
SECTION NO. 1 THEREOF:**

1. International Association of Machinists.
2. International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers of America.

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 submissions in this docket are practically identical to those in Award No. 4215 except that the factual situation arose in the latter part of 1959 at Elsdon, Illinois, and involved two Carmen positions.

The parties are the same, the arguments and contentions are the same, except that the Carrier does not raise the doctrine of laches.

Accordingly, that which we stated in Award 4215 is pertinent and applicable here.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of June, 1963.

DISSENT OF LABOR MEMBERS TO AWARDS 4215 AND 4216

The majority in one paragraph of the findings states that "the Carmen's work went to Norpaul" and in another paragraph concedes that when "the Carrier abolished three carmen's jobs in the LaGrange Yard" . . . "the work of coupling air hoses and testing air brakes at LaGrange was thereafter performed by Switchmen and Trainmen." Thus the organization's position that the carmen's work remained at LaGrange is upheld and consequently the majority should have held that the work of coupling air hoses and testing air brakes at LaGrange was still the work of carmen. To hold otherwise as the majority has done constitutes upholding the carrier in making a change in working conditions—which can only be done by agreement between the duly authorized parties to the agreement or in accordance with Section 6 of the Railway Labor Act.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink