

Award No. 4231
Docket No. 4018
2-GN-FO-'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. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Firemen & Oilers)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the current agreement was violated when other than Roundhouse Laborers were assigned to drive the truck assigned to the Roundhouse and perform duties of Roundhouse Laborers from February 14, 1960 through November 13, 1960 at Willmar, Minnesota.

2. That accordingly the Carrier be ordered to compensate Roundhouse Laborer Ray Heats in the amount of twelve (12) hours at the straight time rate for each of the following Sundays: February 14, 21 and 28, 1960 and each Sunday from March 13 through November 13, 1960, both dates inclusive.

EMPLOYEES' STATEMENT OF FACTS: For a number of years prior to the start of the instant claim roundhouse laborers were assigned to drive the truck assigned to the roundhouse when used for the purpose of transporting a roundhouse laborer, a machinist, a machinist helper and one electrician between the roundhouse of the Great Northern Railway Company, hereinafter referred to as the carrier and the passenger depot at Willmar, Minnesota for the servicing of diesel freight locomotives used on through freight trains, which tied up at or near the passenger depot, which is about one mile from the roundhouse. The machinist, his helper and the electrician performed such mechanical work as was necessary on these diesel locomotives, while laborer checked tools and supplies, cleaned windshield and cab windows, wiped up oil in the engine rooms of the diesels and other laborer's work. Also, on each trip to the passenger depot, the out-going engine crew, consisting of engineer and fireman rode from the roundhouse to the depot in this truck, while on the return trip to the roundhouse, the incoming engine crew rode from the depot to the roundhouse.

the organization demanded that the hostler helper on duty on Sundays be used to drive the truck. Under such circumstances the claims for additional unearned penalties should be dismissed.

**THE CLAIM OF THE ORGANIZATION, THEREFORE,
IS WITHOUT MERIT FOR THE FOLLOWING REASONS:**

1. The organization has failed to sustain its burden of showing any specific agreement or rule which restricted the carrier from assigning truck driving on Sunday at Willmar to coach cleaners.

2. The organization admits that such work was performed by a hostler helper on Sundays before it was assigned to the coach cleaner, and demanded that the work be returned to that employe, not to the claimant. There is no logical reason why the coach cleaner may not perform the work, because both coach cleaners and hostler helpers are promoted from the ranks of laborers under Schedule Rule 12(b), and coach cleaners may perform any unskilled work under rule 93 of the federated crafts agreement.

3. The January 7, 1957 letter of the carrier does not support the Organization's position because it is not an agreement or commitment, and only explains an agreement which was negotiated for a very limited purpose.

4. The so-called memorandums 11 and 12 are not material to this dispute because they concern jurisdictional disputes, and the Organization has insisted that there is no jurisdictional dispute involved in the instant case.

5. Even if there was a violation of some agreement in this case, there is no basis for the penalties claimed.

For the foregoing reasons the carrier respectfully requests that the claims of the employes 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.

The carrier denies that laborer's work was done on diesels by the coach cleaner, and points out that on Sundays engine crew changes were made at Willmar on only two through freight trains, which stopped only long enough for that purpose, and that except in cases of emergency trouble there could be no work for these employes to perform and no time in which to perform it. These allegations are not denied and the parties' arguments here are directed toward the truck-driving question.

On the latter question the parties' allegations are mainly in direct conflict, with no evidence to resolve the disputed facts. However, the Employes admit that store department and repair track employes have transported engine crews between roundhouse and station at Willmar, although they

allege that such occasions were relatively infrequent, and that they used for the purpose trucks assigned to their own departments and not to the roundhouse.

The Employees' Submission indicates that the original use of the roundhouse truck was for actual roundhouse business and that the transportation of the engine crews was merely incidental. It states that for a number of years before this claim roundhouse laborers were assigned to drive the roundhouse truck "when used for the purpose of transporting a roundhouse laborer, a machinist, a machinist helper and one electrician between the roundhouse * * * and the passenger depot at Willmar, Minnesota for the servicing of diesel freight locomotives used on through freight trains;" that those employees there performed the work of their positions on the diesels; that the out-going and in-coming engineer and firemen also rode the truck.

The Agreement does not describe the work of laborers, and the record shows that the driving of trucks and the transportation of engine crews has not by practice been exclusively the work of laborers under this Agreement. Under the circumstances it is not apparent how the carrier violated the Agreement by having the coach cleaner use the roundhouse truck for that purpose.

The record indicates that since November 13, 1960, this work has again been done only by a laborer covered by the Agreement; consequently, no third party notice was necessary.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June, 1963.