

Award No. 4385

Docket No. 4216

2-GN-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee P. M. Williams when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the provisions of the current agreement the Carrier improperly assigned other than Carmen Painters to the work of painting roadway equipment.
2. That the Carrier be ordered to reassign Carmen Painters to perform this work and compensate the Claimants for the time this work was performed by Maintenance of Way Painters as claimed by Local Chairman Swanson's letter of July 25, 1960.

EMPLOYEES' STATEMENT OF FACTS: At Superior, Wisconsin, a point where the Great Northern Railway Co., hereinafter referred to as the carrier, employs Carmen Painters Alex Tomczak, Henry Drinkwine, Joseph Tomczak, Marvin Snyder, Russell Nordstrom, Donald Stark, and Benjamin Polaski, hereinafter referred to as the Claimants.

Prior to June 1, 1960 the claimants painted any and all roadway equipment repaired in the Machine Shop, Superior, Wisconsin.

After June 1, 1960, the carrier arbitrarily turned this work over to the maintenance of way department.

The claimants are requesting that the work of painting roadway equipment be reassigned to the carmen painters and that they be reimbursed on an actual time worked basis for this violation, in rotation starting with Alex Tomczak, from the inception of this claim, July 12, 1960, until the violation is corrected.

This dispute was initiated at the local level by letter signed by the local chairman dated July 25, 1960, directed to the car foreman.

Subsequently, this dispute was appealed up to and including Mr. C. A. Pearson, who declined same on February 13, 1961.

For the foregoing reasons, the carrier respectfully requests that the claim of the employees 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 employee or employees involved in this dispute are respectively carrier and employee 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.

On June 1, 1960 the Carrier consolidated four Maintenance of Way shops into one large shop at Superior, Wisconsin. The large shop was located in a building which had been vacated by the Mechanical Department.

The Organization asserts that the Carrier improperly assigned other than Carmen Painters to the work of painting roadway equipment; it asks that this division order the Carrier to reassign Carmen Painters to perform the work in question and to grant compensation to the carmen painter claimants herein for the work which they have lost by reason of Maintenance of Way painters painting the roadway equipment.

The Organization alleges and such allegation is vigorously denied by the Carrier, that prior to June 1, 1960 claimants have painted any and all roadway equipment repaired in the Machine Shop, Superior, Wisconsin.

Rule 42(f) of Article VIII, the "Assignment of Work and Welding" article, provides as follows:

"If and when roadway equipment is sent to mechanical shops for repairs, operators of such machines shall be permitted to direct the making of such repairs."

The Carrier states that the terms of the Agreement allow it to send, or not to send, roadway equipment painting to the Mechanical Department and in support of this contention it further states that Exhibit "D" of the Employees is a list of only a small portion of the equipment that was re-painted during the period involved.

We are of the opinion that the Carrier's interpretation of the Agreement is correct and that Rule 42(f) establishes that the parties agreed that roadway equipment could and/or would be repaired at places other than in the mechanical shops of the Carrier. In view of this rule we must deny the claims of the Employees.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 5th day of February, 1964.

DISSENT OF LABOR MEMBERS TO AWARD 4385

Rule 42(f) of Article VIII, quoted by the majority, has no reference to painting; Rule 42(a) prescribes that "None but mechanics or apprentices regularly employed as such shall do mechanics work as per special rules of each craft . . ." The record discloses that the work in question was unilaterally transferred by the carrier. The majority by finding that the carrier's interpretation of the agreement is correct is upholding the carrier in violating Rule 96 of the agreement which requires that ". . . No interpretation shall be placed upon these rules unless agreed to by Management and General Committee."

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink