

Award No. 4414

Docket No. 4146

2-IHB-CM-'64

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 EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

INDIANA HARBOR BELT RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: 1. That the Carrier violated the rules of the Controlling Agreement and particularly Carmen's Special Rule No. 154, by having a Foreman inspect cars and loads in the various industries in the Norpaul Seniority District.

2. That Carman F. DiGangi be paid a four-hour call for October 14, 1959 and October 21, 1959.

EMPLOYEES' STATEMENT OF FACTS: The Norpaul seniority district embraces Norpaul, McCook, Bellwood, LaGrange and Elsdon. The foreman goes to the various industries which are located within this territory and inspects cars both empty and loaded. These industries are Chapman and Smith Company, Paige Engineering Company, Electro-Motive Company, Norpaul Team Track, Joe Lowe Company, Eljiers and Company, Sears and Roebuck and Company, Illinois Brick Company, International Harvesters, Soy Biscuit, Joslyn Poles Manufacturing and Mississippi Valley. These industries use gondola cars, box and flat cars, and the foreman inspects all of them.

This dispute has been handled with all carrier officers authorized to handle grievances, including the highest officer, with the result that he, too, declined to adjust it.

The agreement of January 1, 1947, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: The carrier has violated the rules of the controlling agreement and is still violating them by having a foreman perform carmen's work of inspecting cars and loads in these industries.

Rule No. 154 reads as follows:

**"Rule 154
CLASSIFICATION OF WORK**

"(a) Carmen's work shall consist of building, maintaining, dis-

If the instant claim is not dismissed for lack of jurisdiction, it should be denied as being wholly without merit or agreement support.

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.

Claim is here made that the foreman, on October 14, and October 21, 1959 inspected cars and loads in the Norpaul Seniority District in violation of the controlling agreement.

We agree with both parties that if the foreman merely advises shippers of the proper manner of blocking and securing loads without an actual inspection, then there is no violation of the Carmen's agreement.

But under this record, and excluding the consideration of items not considered on the property, we find that the foreman did in fact make inspections which were the work of Carmen on the dates in question, and that the agreement was violated.

AWARD

Claim 1. Sustained.

Claim 2: Sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February, 1964.

CARRIER MEMBERS DISSENT TO AWARD NO. 4414—IHB-CM

In the Findings the majority state "We agree with both parties that if the foreman merely advised shippers of the proper manner of blocking and securing loads without an actual inspection, then there is no violation of the Carmen's agreement." The carrier showed that the work involved fell in the above category and had always been performed by foremen as an integral and pertinent part of their duties. The award therefore is in error and we dissent.

H. K. Hagerman

F. B. Butler

P. R. Humphreys

W. B. Jones

C. H. Manoogian