

Award No. 4511
Docket No. 4346
2-N&W-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. 16, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That a job commonly known as "Truck Job," assigned to work from shop track force, he bulletined to Carmen and Helpers at Elmore Shop, Elmore, West Virginia, showing normal duties in accord with Rule 17.

2. That the oldest employes on the seniority roster at the Elmore Shop be assigned thereto making application.

EMPLOYES' STATEMENT OF FACTS: Since September 15, 1943, the jobs commonly known as "Truck Jobs" were bulletined, such work being performed by a motor car, and in later years, the carrier decided to do away with the motor car and use a truck to do the road work, and said jobs were bulletined and assigned to carmen and carmen helpers.

"Truck Jobs" were advertised and assigned to Carmen and Carmen Helpers.

Under date of January 6, 1960, Carrier posted Bulletin No. 2(60) effective 7:00 A.M., Thursday, January 7, 1960, abolishing said "Truck Jobs."

Since abolishing the jobs, the carrier sends the truck out on the line of road from Elmore using men from the shop track but refuses to bulletin the jobs so employes holding seniority at that point could exercise their seniority to this work which is preferred by senior employes.

Chairman Carmens' Committee R. M. Lawrence, Sr, in letter directed to General Car Foreman Dempsey, dated April 20, 1961, stated the following in part:

"A Check was run to determine just how much this job actually worked other than on the shop track, starting January 23, and ending February 23, 1961, covering a period of 31 actual work days, exclusive

Carrier has shown this claim is without merit, also, that it has not been progressed in accordance with rule No. 33, grievances and time claims, and respectfully requests it either be dismissed or 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 waived right of appearance at hearing thereon.

Carrier, on January 6, 1960 posted a bulletin which abolished the so-called "Truck Job" at Elmore Shop, Elmore, West Virginia. It is the contention of the Organization that the same job has been re-established and therefore the Carrier should bulletin it under the terms of Rule 17 of the current agreement.

Carrier contends that the work referred to has ceased to exist on its property, and that the work claimed by the Organization is actually emergency road work which need not be bulletined.

Carrier also raises the issue of timeliness, in that the Organization made no claim until some 13 months after the "Truck Job" was abolished. Carrier urges that we deny the claim on the basis of Article V Section 1 (a) of the August 1954 National Agreement.

The Organization contends that this is a continuing claim as contemplated by Article V Section 3 of the 1954 National Agreement.

While the form of the claim as submitted does not disclose this to be a continuing claim under Article V Section 3, the substance of the claim is revealed by the record herein causes us to treat it as a continuing claim, and we so do.

A thorough review of the record as made before us shows that the former "Truck Job" at Elmore, has in fact ceased to exist, and that the work which the Organization relies on to show that it is the same work formerly done by the "Truck Job" is emergency road work within the meaning of Rule 122 of the controlling agreement, and nowhere can we find any authority for a contention that such work need be bulletined.

AWARD

Claim 1: Denied.

Claim 2: Denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of May 1964.