

Award No. 4901

Docket No. 4810

2-GM&O-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Donald F. McMahon when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 29, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

GULF, MOBILE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the rerailling of cars within yard limits is the contractual work of Carmen under provisions of the current agreement.

2. That the provisions of the agreement were violated when other than Carmen were used to reraill cars on dates of June 20, July 2, and July 14, 1963.

3. That accordingly, the Carrier be ordered to make the Carmen whole by additionally compensating Carmen W. L. Smith, R. J. Blue, T. W. Manson and N. E. Schroeder in the amount of four hours each at the straight time rate of pay for June 20, 1963; Carmen R. L. Green, R. J. Phillips and C. E. DeHart in the amount of four hours at the straight time rate for July 2, 1963; and Carmen Mike Slotta, R. E. Martin and A. Krieshok in the amount of four hours straight time for July 14, 1963.

EMPLOYEES' STATEMENT OF FACTS: On date of June 20, 1963, EJ&E 90186 and ART 27738 became derailed on the south end of lead track in Brooklyn Yard. Section Foreman Joe Logan and four members of his crew were called out to reraill these cars. They obtained reraillers, blocks and wedges, placed and secured them under the cars. No carmen were called.

On date of July 2, 1963, GM&O 8562 became derailed on the north end of Track No. 4 in Brooklyn Yard. Section Foreman Joe Logan and three members of his crew were called out to reraill this car. They obtained reraillers, blocks and wedges, placed and secured them under this car. No carmen were called.

On date of July 14, 1963, UP 102704 was derailed on the south end of Lead Track in Brooklyn Yard. Section Foreman Joe Logan and three members of his crew were called out to reraill this car. They obtained reraillers, blocks and wedges, placed and secured them under the car. No carmen were called.

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 are progressed here by the Organization on behalf of Carmen, when Carrier used other than Carmen to reraill cars on June 20, 1963, July 2, and July 14, 1963.

Claims are as follows—

June 20, 1963, when rerailling cars on the south end of Lead Track in Brooklyn Yard, Section Foreman and four members of his crew were assigned to do the work. Work consisted of use of reraillers, blocks and wedges placed and secured under the cars. Carmen were not called by Carrier for this work. On July 2, 1963 one car derailed on Track 4, Brooklyn Yard. Carrier called Section Foreman and 3 of his crew to perform the work of rerailling the car with the use of reraillers, blocks and wedges placed and secured under the car. Carmen were not called to perform the work. On July 14, 1963 one car was derailed on south end of the Lead Track in Brooklyn Yard. The Section Foreman and three members of his crew were used to perform the work of rerailling the car. No Carmen were called by Carrier.

Contention is made that Carmen claimants were available for call to perform the work.

The Organization relies on the provisions of Rules 29 and 148 to support their contentions.

Carrier denies it in any way violated any provisions of the Agreement between the parties as alleged.

After a thorough review of the record here before the Board, and the numerous Awards cited by the parties, we conclude that the Organization has failed to carry the burden of proof in its presentation here. Carrier did not violate the Agreement, and the Organization has presented no proof that claimants were entitled to the exclusive performance of the work here involved. Certainly the rules relied on give no comfort to the fact that the work performed belonged exclusively to Carman's craft, where in Carrier's judgment the work performed did not require the calling out of the Wrecking Crew, within Yard limits and no requirement is placed on Carrier under Rule 148, to use Carmen.

Award No. 4569, based on a claim on the property of this carrier, is similar to the situation and facts before us here, although a different Agreement was involved, the identical wording of the Rule involved there is the same as in the case here. The rule so involved is identified in the Award as Rule No. 509.

This claim does not merit a sustaining Award.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June, 1966.