

Award No. 4971

Docket No. 4748

2-LV-CM-'66

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. 96, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier improperly assigned Trainmen on Sundays, May 26, June 2, 9, 16 and 23, 1963, and each Sunday thereafter to perform the work of Carmen in making inspection and air test on Train No. 262 before leaving Auburn, N. Y. for Sayre, Pa.

2. That accordingly the Carrier be ordered to compensate Carman John R. Bromley in the amount of a four (4) hours call for May 26, June 2, 9, 16 and 23, 1963, and each Sunday thereafter.

EMPLOYEES' STATEMENT OF FACTS: Prior to May 1, 1961, carmen were employed seven days a week on the 7:00 A.M. to 3:00 P.M. and 3:00 P.M. to 11:00 P.M. shifts at Auburn, N. Y. Two regular five (5) day positions and one (1) regular relief position. The relief position covered 3:00 P.M. to 11:00 P.M. shift on Sundays.

Effective May 1, 1961 the carrier abolished the relief position and thereafter on each Sunday the carman assigned to the 3:00 P.M. to 11:00 P.M. shift on Monday through Friday was called out on the four-hour call rule to make proper inspection, air test, etc., to train No. 262, which every Sunday night goes light from Auburn, N. Y. to Sayre, Pa., with locomotive and caboose, distance of approximately 85 miles.

On Sunday, May 26, 1963, and every Sunday thereafter, the carrier discontinued calling out the carman and the work normally performed by carman prior to May 26, 1963 was performed by trainmen in making up Train No. 262 and making proper inspection and air test thereto.

This dispute has been handled with the carrier in accordance with the Agreement up to and including the highest officer so designated by the carrier with the result that he too has declined to adjust same.

In Second Division Award No. 457, the Board, without a referee, held:

"Coupling air hose and making the usual air tests, incidental to the duties of train service employes, is not a violation of the Car-men's agreement. The coupling of air hose and air brake tests, incidental to inspection and repairs, is carmen's work."

For other Second Division Awards similar to the above on the question of air hose coupling and testing air in connection therewith, please refer to Awards Nos. 32, 624, 667, 682, 826, 833, 918, 1218, 1333, 1626, 3340, 3483, 3593 and 3899.

The First Division has in numerous awards denied claim of train or engine crews for additional compensation when required to perform the same work as is in dispute here. Among such awards are —

AWARD 8970 (Referee Roll)

"The mere coupling of cars, and testing the air, under the facts in this case, when made in connection with their own train does not in the judgment of this Division, constitute general switching, as contemplated by the Agreement."

AWARD 11986 (Referee Rudolph)

"Claim for two days at yard rates for inspecting and making an air test of their train. * * * The facts disclose simply a straight pickup of 102 cars that has been inspected. * * * In view of Operating Rule 955 and it being undisputed in this record that making an air test under conditions similar to those shown on this docket is in line with practice in effect at all points on this railroad of long standing, the claim for making the air test cannot be sustained."

Other First Division Awards are Nos. 2212, 16517, 17579 and 17724.

It is, therefore, the carrier's position that there being no rule in the current agreement to the matters of coupling air hose and making air tests and such work never having been assigned exclusively to any particular craft or class of employes on this railroad, there is no merit to the instant claim.

Awards of the First and Second Divisions of the National Railroad Adjustment Board support the Carrier.

The carrier respectfully submits this claim should 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 waived right of appearance at hearing thereon.

Prior to May 1, 1961, carmen were employed seven days a week on the 7:00 A.M. and 3:00 P.M. shifts to make inspections, air tests, etc., on all cars and trains leaving Auburn, there being two regular five-day positions, and one relief position which covered the 3:00 P.M. shift on Sundays.

Effective on that date the relief position was abolished and thereafter the carman regularly assigned to the 3:00 P.M. weekday shift was called out under the four-hour call rule on Sunday evenings to make inspection and air test on train No. 262, which then goes light, with locomotive and caboose, from Auburn to Sayre, about 85 miles. This practice was discontinued on Sunday, May 21, 1963, whereafter the hose coupling between engines and caboose and air brake testing prior to the Sunday evening departures were made by its trainmen.

It has long been held by this Division that such work does not belong exclusively to carmen, but is their work when performed in connection with inspecting and repair of cars and other carmen's work (Awards 32, 457, 1333, 1372, 1554, 1626, 1636, 1770 and 2626); that it is trainmen's work when performed in connection with the movement of their trains (Awards 3335, 3339, 3340, 3714, 4209, 4210, 4238, 4240, 4446 and 4648).

It is urged here that as this particular coupling of air hose between engine and caboose, and air brake testing prior to departure has previously been done by a carman it is a violation of the carmen's Agreement now to permit its performance by a trainman. But the application of the general provisions of an Agreement are system-wide except as otherwise provided. Consequently, if certain work which is within the province of both carmen and trainmen has at one point or under certain circumstances been performed by a carman, that particular work does not thereby become the especial work of carmen to the exclusion of trainmen. Provided the work is of the kind proper for a trainman, namely in connection with the movement of his train, there is still no violation of the carmen's Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October, 1966.