

Award No. 5192

Docket No. 5106

2-LV-CM-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Harold M. Weston 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:

That the Carrier improperly assigned Trainmen and Conductor on December 17, 1964 to perform the work of Carmen in making inspection, air test and the related coupling of air hoses to train of eighty (80) cars before train left departure yard, Easton, Pa.

That accordingly the Carrier be ordered to compensate Carman Russell R. Christman in the amount of eight (8) hours at the time and one-half rate of pay for December 17, 1964.

EMPLOYEES' STATEMENT OF FACTS: Carman Russell R. Christman, hereinafter referred to as the claimant, is regularly assigned to position of car inspector on the 7:00 A. M. to 3:00 P. M. shift, Thursday through Monday, with Tuesday and Wednesday rest days. He was available to be called for this work on December 17, 1964, but was not called.

On Thursday, December 17, 1964, a train consisting of eighty (80) cars was received in interchange from the PRR at Phillipsburg, N. J. at 5:05 A. M. and moved the short distance to Richards Yard, Easton, Pa. with extra yard drill Engines 262 and 253.

Carman Francis Ohl on duty on the 11:00 P. M. to 7:00 A. M. shift was inspecting cars off "Lehigh" train east and was unable to make inspection of these eighty (80) cars prior to their departure.

Yardmaster assigned Trainmen and Conductor to couple air hoses, make the proper air test and inspection thereto, to the eighty (80) cars received through interchange, and after this work was completed train left Richards Yard westbound at 6:45 A. M.

This rule shall not apply to coupling of air hose between locomotive and the first car of an outbound train; between the caboose and the last car of an outbound train or between the last car in a 'double-over' and the first car standing in the track upon which the outbound train is made up."

As previously stated the train crew members did not by any stretch of the imagination make any mechanical test of the brakes and appurtenances of the cars in the train, there was no reason for the Carrier to assign a carman to the train involved. It is a recognized fact in the railroad industry, that to mechanically inspect the brakes and appurtenances of cars, special tools and skills are needed. Such tools and qualifications are not necessary to make air brake tests or couple air hose. Train crew members have neither the tools or skills to perform the work the claimants herein allege was performed by the train crew.

CONCLUSION

Carrier asserts that this claim should be denied for any one or all of the following reasons:

1. There is no rule in the Carman's agreement giving that class of employes the exclusive right to couple air hose and/or test air brakes.

2. The issues of trainmen coupling air hose and testing air brakes have been taken to this Board by the employes on previous occasions, the claims were denied and the carriers were upheld in the same principle herein involved.

3. The employes have failed to produce any rule or evidence to substantiate its position in this case.

4. The work herein complained of has never been assigned exclusively to any particular class of employes on this property.

Awards of the National Railroad Adjustment Board have been cited by the carrier in support of its position.

Carrier respectfully submits this claim is without merit and should be denied.

Oral hearing is not desired unless requested by the employes.

(Exhibits not reproduced.)

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.

Petitioner contends that Carrier wrongfully assigned trainmen and a conductor to perform Carmen's duties. It alleges that the work in dispute consists of "making inspection, air test and the related coupling of air hoses" to a train of eighty cars before it left the departure yard at Erie, Pennsylvania.

Article V of the September 25, 1964 Agreement, reads as follows:

"In yards or terminals where carmen in the service of the carrier operating or servicing the train are employed and are on duty in the departure yard, coach yard, or passenger terminal from which trains depart, such inspecting and testing of air brakes and appurtenances on trains as is required by the carrier in the departure yard, coach yard, or passenger terminal, and the related coupling of air, signal and steam hose incidental to such inspection, shall be performed by the carmen.

This rule shall not apply to coupling of air hose between locomotive and the first car of an outbound train; between the caboose and the last car of an outbound train or between the last car in a 'double-over' and the first car standing in the track upon which the outbound train is made up."

The second paragraph of that provision clearly stipulates that, in the case of an outbound train, carmen do not possess the exclusive right to couple air hoses between the locomotive and first car, between the caboose and last car or between the last car in a "double-over" and the first car standing in the track upon which the outbound train is made up.

Petitioner has not presented facts in its submission showing exactly what duties the trainmen and conductor performed. Its general allegations fail to establish that the work in question does not fall within the terms of Article V's second paragraph. The admissions contained in Carrier's submissions do not fill in the gaps in the proof for they show only that train crew members coupled the air hose between the engine and the first car and between the caboose and last car of an outgoing train and made a brake application and release test. There is no evidence that trainmen "walked the train" or made mechanical or any type of inspection that belongs exclusively to carmen under Rules 32 or 121 and Article V of Award 4971.

We will not engage in conjecture or accept bare assertions in lieu of the essential facts and must deny the present claim for want of proof.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June, 1967.

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