

Award No. 5485
Docket No. 5351
2-A&S-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Paul C. Dugan when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 154, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)

ALTON AND SOUTHERN RAILROAD

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the provisions of the current agreement the Carrier improperly assigned other than Carmen to give air brake tests on trains September 6, and 17, 1965.

2. That accordingly, the Carrier be ordered to additionally compensate Carman J. Abbott in the amount of five (5) hours at the straight time rate of pay for September 6, 1965, and additionally compensate Carman W. J. O'Dell in the amount of five (5) hours at the straight time rate for September 17, 1965.

EMPLOYEES' STATEMENT OF FACTS: Carmen J. Abbott and W. J. O'Dell, hereinafter referred to as the Claimants, are regularly assigned as Car Inspectors by the Alton and Southern Railroad, hereinafter referred to as the Carrier. The Claimants were off duty and available for service at the time here relevant.

On date of September 6, 1965 at approximately 2:00 P. M., a number of cars were switched out and placed on Track No. 26 to compose the Dupo Train to be dispatched to Dupo, Illinois. The caboose was placed on this group of cars and Carmen coupled the air hose and connected air from a yard plant and charged the brake system and inspected same.

After this was accomplished, the Carmen were released from this train and assigned other duties in the train yard. When the locomotive was attached to the train, and the brake system recharged, an additional air brake test was given in conformity with Section 132.12(g)(2) of the Power Brake Law of 1958. A member of the train crew was instructed and did perform the inspection.

On date of September 17, 1965, at approximately 7:30 A. M., the same procedure as above was followed on the Dupo Train which was also made up on

"The coupling and uncoupling of air, steam and signal hose, testing air brakes and appurtenances on trains **or cuts of cars** in yards and terminals, shall be carmen's work." (Emphasis ours.)

The Carmen's organization did not get this rule. What they did get was Article V, and it is most significant to note that the term "or cuts of cars" does not appear in that Article. As pointed out previously in this Submission a train and a "cut of cars" are recognized in the railroad industry as two distinctly different things. Hence, the organization is, in effect, asking your Board to supply them with a rule that they were unable to get over the bargaining table.

The Brotherhood's position on this property was that Article V of the Shop Craft Agreement of September 25, 1964 gives them exclusive right to the work involved in these claims. This is wholly inconsistent with advice given them by their own Grand Lodge. There is attached to this Submission marked Exhibit A, copy of a letter issued to all General Chairmen of the Brotherhood Railway Carmen of America. Your Board's attention is called, in particular, to the second paragraph of this letter which reads as follows:

"It seems the employes are laboring under the impression that the Rule is similar in type to a Scope Rule in which the work referred to is Carmen's work **under any circumstances, and this is not so.**" (Emphasis ours.)

Obviously, the employes' Grand Lodge in interpreting Article V has recognized that the work here in dispute is not Carmen's work, under certain circumstances. It is our position that these circumstances are the same circumstances upon which we have based our defense of these claims, i.e., in summary, that:

1. The making of air tests performed solely to determine if brakes have applied to the wheels of cars is not the exclusive work of Carmen, but may be performed by Yardmen as an incidental part of their duties.

2. Article V of the September 25, 1964 Shop Craft Agreement has no application on this property because it is restricted to "yards or terminals where carmen in the service of the carrier operating or servicing the trains are employed and are on duty in the departure yard, coach yard, or passenger terminal from which trains depart" i.e., the departure yard for road service operations.

For the reasons heretofore given, the claims the employes now have before your Board are wholly without merit and we respectfully request that they be declined.

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.

The facts herein are that on September 6 and September 17, 1965 a number of cars were placed on Track No. 26 in Carrier's Davis yard in East St. Louis, Illinois, after which carmen coupled the air hose, connected air from the yard plant, made a brake pipe reduction to set the brakes, and then inspected same. The carmen were then released for other duties in the yard. Later a locomotive (Carrier says also a caboose) was attached to the cars. The rear trainman, a switchman, signaled the Engineer to set the brakes and then the switchman checked to see if the brakes were applied on the caboose at the rear of the train, after which the train departed for Dupu, Illinois.

This later automatic brake application and release test of the air brakes on the rear car made by said switchman of the train crew gives rise to the claim before the Board.

It is the Employees' contention that Article V of the September 25, 1964 Agreement was violated because it specifically reserves to Carmen all the work of inspecting, testing of air brakes and appurtenances on all trains and related coupling of air hose incidental to such inspection required by Carrier.

The Carrier's position is that the train crew member did not make an air brake inspection such as inspecting the mechanical action of the brake or measuring piston travel; that the making of air tests solely for the purpose of determining if brakes have applied to the wheels of cars is not the exclusive work of carmen; that Carrier's Davis Yard is not a departure yard, coach yard or passenger terminal, and it operates no "trains" as such but transfers cuts of cars from one railroad to another railroad, all within a radius of less than twenty miles.

Article V of the September 25, 1964 Agreement provides 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."

From the evidence in the record it is seen that the trainmen did not make an air brake test incidental to mechanical inspection and repairs, which is exclusively reserved to carmen. The automatic brake application and brake release test made by the trainman in this instance was incidental to the handling

of cars in his train. As was said in Award 5462 (Coburn) involving a similar issue as here: "The record is devoid of any evidence that the trainmen performed such mechanical inspection and testing as is clearly contemplated by Article V to be work belonging exclusively to carmen. . . . What is established is that a train crew coupled the air hoses and made the usual air test as an incidental part of the duty of handling cars in its own train. . . ." See also Award 5192 (Weston).

Therefore, for the aforesaid reasons, we must deny this claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 28th day of June, 1968.