

Award No. 5538

Docket No. 5384

2-CB&Q-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Chicago, Burlington & Quincy Railroad Company violated the current agreement when it removed coach cleaner's work at Casper, Wyoming from the carmen's craft and turned the coach cleaner's work over to the Machinists Craft.

2. That Coach Cleaner J. J. Cokenour be additionally compensated at coach cleaners rate for a four-hour call each Monday, Tuesday, Wednesday, Saturday and Sunday, beginning January 10, 1966 and continuing until violation is corrected.

EMPLOYEES' STATEMENT OF FACTS: At Casper, Wyoming one coach cleaner, Mr. J. J. Cokenour, hereinafter referred to as the Claimant, is employed by the Chicago, Burlington & Quincy Railroad Company, hereinafter referred to as the Carrier. The Claimants assigned hours are from 6:30 A. M. to 11:00 A. M., 11:30 A. M. to 3:00 P. M., Saturday through Wednesday with Thursday and Friday as assigned rest days.

Prior to January 10, 1966 the Carrier had assigned Car Inspectors (carmen) to perform the coach cleaner's work on train No. 30 which arrives Casper at 9:55 P. M. and departs at 10:45 P. M. The work consists of cleaning, watering and supplying passenger coach on the above mentioned train.

On or about January 5, 1966 a force reduction was made at Casper, and all car inspector positions on the second shift was abolished and the coach cleaner's work on train No. 30 was removed from the carmen's craft and assigned to Machinists McMann and Nelson thereby damaging the carmen craft.

The Claimant, Coach Cleaner Cokenour was off duty and is available for call to perform the work outlined in Rule 82 of the agreement between System Federation No. 95 and the Carrier.

The machinists do not claim the work involved in this dispute, as evidenced by copy of letter over the signature of Machinists' General Chairman G. R. DeHague, dated December 15, 1966, attached hereto as Exhibit A.

and perform carmen's work, unless the work is "of such nature as to require the services of the mechanic in question" or "* * * the job at hand will consume one hour or more." These criteria are used in the interpretation to paragraph (e) of Rule 27, and the off duty employee need not be called unless one of them are applicable. Certainly the work involved herein would not require the services of a carman by its nature. Any employee is capable of placing drinking water on the coach of train No. 30 and picking up the trash. Neither does the work consume more than one hour since train No. 30 is at Casper only for a period of 50 minutes. Actually, the work consumes only 10 or 15 minutes.

The Organization advanced a contention that Rule 27(e) and the agreement at page 51 of the schedule had been superseded by Article III of the National Agreement of September 25, 1964. This provision has been reproduced at page 113 of the schedule.

The Board will note that Article III deals with the use of supervisors. It has no connection with crossing craft lines during shifts when an employee of each craft is not on duty. Article III does not conflict in any manner with paragraph (e) of Rule 27, or the interpretive understanding reproduced at page 51 of the schedule. The two contractual provisions deal with entirely different subjects. There is no logic to the argument that Article III superseded Rule 27(e).

In conclusion the Carrier restates its position in this case as follows:

1. The small item of work involved herein, supplying one coach on train No. 30 with drinking water and picking up trash, is not exclusively coach cleaners' work under any provision of the schedule.

2. The Organization has admitted on the record that coach cleaners have not performed this work on train No. 30 for a long period of time prior to the time this claim was filed. It was done by on duty carmen.

3. This work is not exclusively carmen's work under Rule 75 or any other provision of the agreement between the parties. Neither does it fall to carmen when not performed by coach cleaners.

4. If the Board somehow found this was work falling to the carman craft, after January 1966 when no carmen were on duty at the time of No. 30's arrival at Casper, Rule 27 (e) and the interpretation at page 51 expressly permitted craft lines to be crossed and on duty machinists may perform carmen's work. This provision was not superseded by Article III of the National Agreement of September 25, 1964, since the two provisions do not conflict in any manner.

For the reasons expressed herein this claim must be denied.

(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 employee or employees involved in this dispute are respectively carrier and employee 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.

Petitioner contends that Carrier violated the effective Agreement between the parties when coach cleaner work on Carrier's Train #30 at Casper, Wyoming was assigned to members of the Machinist's craft rather than Carmen, who previously had performed such work on train #30 before January 10, 1966. Claimant is a regularly assigned coach cleaner on another shift, who allegedly was available to perform the disputed work on a call basis.

Carrier contends that carmen had performed the disputed work on train #30 for a substantial period of time prior to the date of claim instead of coach cleaners, and that such work does not belong exclusively to Carmen under Rule 75 or by other provision of the effective Agreement. Furthermore, Carrier urges that after January 10, 1966, no Carmen were on duty when Train #30 arrived at Casper and that Rule 27(e) of the Agreement and the interpretation thereof expressly permitted craft lines to be crossed and on-duty machinists assigned such Carmen's work.

The record reveals that prior to January 10, 1966, no coach cleaner was on duty to perform necessary coach cleaner work on Train #30 at Casper, Wyoming and that the second shift car inspectors working in the train yard performed such work. On or about January 10, 1966, a reduction of force at Casper resulted in the elimination of all car inspector positions on the second shift, and Carrier then assigned the coach cleaning work on Train #30 to the machinist on duty when said train arrived and required service.

Rule 82 of the effective Agreement provides as follows:

"Coach Cleaners' work shall consist of supplying and cleaning inside and outside of passenger train cars and other similar work.

Existing rates for coach cleaners shall be maintained."

Although coach cleaners and Carmen do not hold common seniority, both positions are within the same craft for the purpose of collective bargaining as is evidenced by the fact that coach cleaners may advance to carmen helper positions. Consequently, the assignment of carmen at Casper to perform coach cleaning duties when no coach cleaner was on duty was a proper assignment within the same craft, and Petitioner has not waived any right to object to the subsequent transfer of such work to another craft.

However, Carrier further relies on Rule 27 (e) of the effective Agreement and the interpretation thereof to support the disputed transfer of coach cleaner work to machinists at Casper, Wyoming.

Rule 27(e) provides as follows:

"(e) When the service requirements do not justify the employment of a mechanic in each craft the mechanic or mechanics on duty will, so far as they are capable, perform the work of any other craft that may be necessary subject to memorandum of understanding appearing on Page 51 of Appendix."

The pertinent language of said Memorandum of Understanding reads as follows:

"In applying the provisions of paragraph (e) of Rule 27 as revised, it is understood that when a mechanic of a particular craft is not on duty, but a mechanic of that craft is employed at the point of another shift, the off-duty mechanic will be called to perform the work of his craft in all instances when in the judgment of the foreman the work is of such nature as to require the services of the mechanic in question. It is understood, however, that regardless of the nature of the work the off-duty mechanic will be called in all cases where the job at hand will consume one hour or more.

Claimant in this case is a coach cleaner on another shift, but the nature of the work involved cannot be construed as requiring his services, and the record reveals that the coach cleaning work on Carrier's Train #30 consumed less than one hour.

Petitioner avers that Rule 27(e) has been superseded by Article III of the September 25, 1964 Agreement. Analysis of Article III discloses that this provision pertains to the assignment and performance of mechanics' work by foremen or other supervisory employees at points where no mechanics are employed. The subject matter of this provision is completely unrelated to that encompassed by Rule 27(e) and the interpretation thereof relied on by Carrier. Therefore, we must conclude that Rule 27(e) of the effective Agreement was not superseded by Article III of September 25, 1964 National Agreement and is applicable in the instant dispute. Accordingly, the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September 1968.