

Award No. 5548

Docket No. 5404

2-NOPB-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis B. Murphy when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

NEW ORLEANS PUBLIC BELT RAILROAD

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, it is improper for the Carrier to assign Laborers to paint Car Material for the purpose of preservation of such material.

2. That accordingly the Carrier be ordered to additionally compensate Carman J. J. Hyatt for two (2) hours at time and one-half rate for said violation.

EMPLOYEES' STATEMENT OF FACTS: At New Orleans, Louisiana, the New Orleans Public Belt Railroad hereinafter referred to as the Carrier maintains an operation known as the Claiborne Shop Track for the maintaining and repairing of all types of railroad cars including a force of Carmen, Carmen Helpers and Apprentices.

On February 8, 1966, Carrier assigned two laborers to paint the lumber stored at Claiborne Shop for future use in the maintaining and repairing of railroad cars.

For many years prior to February 8, 1966, Carmen and/or Carmen Apprentices had been assigned to do all painting work at Claiborne Shop Track.

Carman J. J. Hyatt hereinafter referred to as the Claimant is regularly employed by the Carrier as a Carman and regularly assigned at Claiborne Shop Track. Claimant was available to perform the work involved in this dispute.

The Firemen and Oilers have been made aware of the pendency of this dispute and do not claim the work here involved as evidenced by copy of letter dated January 19, 1967, addressed to General Chairman Carman W. J. Reuther by General Chairman A. C. Manley of the Firemen and Oilers attached hereto as Exhibit A. Further, the letter attached hereto as Exhibit A was made a part

Bulletin No. 258, dated August 6, 1951, was issued by the Master Car Builder requesting Carmen assigned on the Repair Track Monday through Friday to signify if they did or did not desire to avail themselves to be called out for the purpose of distributing the overtime. As is evidenced by copy of this Bulletin attached and identified as Carrier's Exhibit C, none of the men working on the Repair Track Monday through Friday availed themselves to be called for overtime.

Since that time it has been a practice to call the junior carman regularly assigned to the Repair Track Monday through Friday, for all overtime work.

Carman E. W. Boos was the junior carman assigned to Repair Track on February 8, 1966. A copy of Seniority List covering carmen is attached and identified as Carrier's Exhibit D.

It is Carrier's position that Carman-Inspector J. J. Hyatt could in no way be considered a proper claimant in this case, as he was regularly assigned to Regular Relief Assignment B on the date in question.

As is evidenced by Carrier's Exhibits B and C and past practice, carmen regularly assigned to the repair track MONDAY THROUGH FRIDAY are called in reverse seniority order for overtime work.

Carrier respectfully requests your Honorable Board to decline this claim.

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 employees 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 thereon.

Because of the peculiarity of the situation which gave rise to the claim, and the fact that the Union which represents the employees who were used to perform the dispute service, has recorded a jurisdictional waiver of any claim to such service, the claim on behalf of J. J. Hyatt, for two hours pay will be allowed. Following the principle so firmly established by this Division and other Divisions of the N.R.A.B., no service having been performed by claimant, the payment here awarded, shall be at the straight time rate.

AWARD

Claim disposed of per above Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

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

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