

Award No. 6051
Docket No. 5911
2-SCL-CM-'70

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Don J. Harr when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)

SEABOARD COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current applicable agreement the Carrier violatively and arbitrarily abolished an assignment (trackmobile operator) at Hamlet, North Carolina in the Car Department and created a position on the same shift with different relief days without advertising the trackmobile operator's position or duties while the trackmobile continued to be operated in exactly the same manner as it was prior to the abolishment with the Carrier assigning employees (carmen) on hourly or daily basis without regard to seniority. The trackmobile swing position that relieved the beforementioned position, which was a seven day position, has never been abolished and is a violation.

2. The new position that was created has relief days of Friday and Saturday and no swing position to relieve same and is a violation.

3. That accordingly the Carrier be ordered to restore the trackmobile operator's position on the second shift at Car Shop No. 2, Hamlet, North Carolina and that they be ordered to create a swing position to relieve the position outlined in Item 2 above.

EMPLOYEES' STATEMENT OF FACTS: On May 28, 1968 a bulletin was placed on the board at Hamlet, North Carolina, in the Car Department, abolishing the position of trackmobile operator, 3:30 P. M. to 11:30 P. M., hours of assignment, relief days Tuesday and Wednesday. The trackmobile swing position (regular relief assignment), which relieved this position on Tuesday and Wednesday, was not abolished and continues to relieve the beforementioned trackmobile operator's position which does not exist.

A new position with relief days of Friday and Saturday, second shift, at Car Shop No. 2, which is the same work location, was created and to date does not have a relief assignment to swing same.

Carrier respectfully requests that your Board deny this claim in its entirety.

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 waived right of appearance at hearing thereon.

On May 28, 1968, Carrier abolished the "Trackmobile Operator" position in the Hamlet Car Department by bulletin reading:

"Effective five (5) working days from this date, the position of Trackmobile Operator, Car Shop No. 2, Hours of Assignment 3:30 P. M. to 11:30 P. M., Rest days Tuesday and Wednesday, Rate \$3.306 per hour, will be abolished."

On May 29, 1968, Carrier established a new assignment on the second shift in its Hamlet Car Department by bulletin reading:

"Bids will be received in this office for a period of five (5) days from date for the following position:

1. Carman B. Spot Repair Shop, Rate \$3.306 per Hour, Hours of Assignment 3:30 P. M. to 11:30 P. M. Relief Days Friday and Saturday. New Position."

On July 18, 1969, the Local Chairman filed a grievance alleging that the procedure followed by the Carrier violated the agreement, in particular Rules 1, 15 and 23.

In their Submission to the Board the Employees ask that the Claim be sustained for Carrier's failure to comply with Rule 30, Paragraph 1(a) (the time-limit rule). We find that the Carrier properly denied the Claim under the provisions of Rule 30.

It is well settled by decisions of this Division and other Divisions of the NRAB that it is the employer's right to arrange and control its forces and manage its business, subject to its contractual obligations and the limitation of law. (See Second Division Awards 2916 and 3630.)

The question to be decided by the Board is whether the Employees had exclusive right to operate trackmobiles under the Agreement or by past custom and practice.

The Classification of Work Rule (Rule 100) does not mention trackmobiles. From a review of the record we find no probative evidence to show that the Employees have the exclusive right to operate trackmobiles. The exhibits offered by Carrier indicate the contrary.

We must deny the Claim for lack of support.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November, 1970.