Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6686
Docket No. 6471
2-PB&NE-CM-'74

The Second Division consisted of the regular members and in addition Referee Louis Yagoda when award was rendered.

Parties to Dispute: (System Federation No. 96, Railway Employes' Department, A.F.L. - C.I.O. (Carmen)
(Philadelphia, Bethlehem & New England Railroad Co.

Dispute: Claim of Employes:

That the Carrier violated the controlling agreement, particularly Rule 23 (a) and Special Rule 20 (a), when Yardmaster coupled air hoses on 23 cars in connection with Carmen's duties on July 23, 1972.

That accordingly the Carrier be ordered to compensate Carman Richard W. McFetridge eight (8) hours at the applicable time and one half rate of pay account of this violation.

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.

Certain facts are not in dispute. On the date and at the time stated in claim, Car Foremen asked Carman F. Kovach to leave the Coke Plant to inspect certain cars on tracks 553 and 554 at Middle Yard. After Carman Kovach left the Coke Plant, 23 empty hopper cars were placed on the plant tracks. These cars had been emptied by the Coke Plant and were destined for outbound interchange delivery by the carrier to the Reading Railroad, and therefore required an outbound inspection. When these cars were placed on the plant track, Yardmaster A. Nesbitt coupled the air hoses on the 23 cars.

It is the position of Employes that this work by Yardmaster was in violation of Carmens' Special Rule 20, paragraph (a) and Rule 23, para-

graph (a). It is undenied that Claimant McFetridge was the next man available and not called on the overtime list; accordingly, Employes demand that as remedy, he be conpensated for 8 hours at the applicable time and one-half rate.

Carrier contends as follows:

1. Coupling of air hose is not the exclusive work of Carmen.

2. Work done was minimal - and did not deprive Carman of a days' work, especially in view of fact that on the day in question, Claimant was fully assigned and performed all of the car inspection work on the 23 cars.

3. Yardmaster coupled the air hoses as a "convenience" for Claimant and without orders from supervisors.

4. Air hose coupling involved did not occur on Carrier-owned and controlled tracks (the tracks are owned by the Plant) and it is therefore beyond the scope of the Agreement between the parties.

5. The claim for punitive pay is, under any circumstances, not supported by agreement rules or practice on this property.

Our examination of the cited Rules 20 (a) does not reveal exclusive reservations therein of the work in question - the coupling of air hoses to Carmen. We do not find persuasive Employes' reading of an inference to that effect in the phrase "inspection work in connection with air brake equipment on freight cars" in Rule 20 (a). If such was the intention, it would have been easy for the parties to have made the simple flat statement "coupling of air hoses" by itself, or as a qualifier to a following statement "....in connection with inspection". They did not so state.

Consequently, determination of this claim turns on whether by consistent and substantial practice here there was such defacto exclusive reservation. The parties are agreed that there was not.

Accordingly, the claim must fall.

A W A R D

Claim of Employes' denied.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By: Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of April, 1974.