

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

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/ Division of TCU
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(Norfolk and Western Railway Company

STATEMENT OF CLAIM:

1. That the Norfolk and Western Railway Company violated Controlling Agreements Rule 35 when they failed to answer specifically the request of the Local Chairman at Bluefield Terminal, Bluefield, WV, when he requested their written instructions on the compliance with their own rules.

- A. NS1- Rules for equipment operation dated February 1, 1985 Rule A-2 which states in part:

'***at points where inspectors are employed to make a General Inspection of trains upon arrival at terminals, visual inspection must be made of retaining valves and pipes, release valves and rods, brake riggings, safety supports, hand brakes, hose and position of angle cocks and make necessary repairs or mark for Repair Track any cars to which yard repairs cannot be promptly made.'

- B. Norfolk Southern (NW) Safety and General Conduct Rules, Page 12, Rule No. GR.9 which states in part:

'All employees must, as far as practical, observe passing trains for their entire length for defects such as brakes, sticking, hot journals, broken or loose wheel, brake rigging down, load shifted or other trouble. Inspectors on both sides are required when two (2) or more employees can safely position themselves in advance.' (Emphasis ours)

- C. The Carmen at Bluefield Terminal are being told by their immediate supervisors on their shifts that they are no longer to watch these trains as per rules states above. However, due to Car Inspectors, in the historical past, being cited for "missing" a defect on a roll-by inspection by someone other than his immediate supervisor, and that Carman states to the person citing him for rule violations, that his supervisor told him that watching trains on arrival, whether available or not, is no longer required. There have been and is still possible that the immediate supervisor

denies telling the Carman that when he realizes that he is in trouble with his supervisors. This puts the Carmen in "double jeopardy" without written instructions.

2. That because of such violations, the Norfolk and Western Railway Company be ordered to issue instructions, in writing, to all concerned on whether or not they want available Mechanical Inspectors (Carmen) to comply with their own rules, thereby, not putting Carmen in the position of following the verbal instructions of his immediate supervisor, and then have him deny giving them later.

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 employes 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.

Sometime in early 1987 Carmen at Bluefield, West Virginia were advised orally that they would no longer perform roll by inspections of trains originating at Flat Top and Tip Top, unless the inspections would not delay Carmen's work on other coal trains. Approximately a year later, the Organization instituted this Claim contending, inter alia, that Carmen are required by Carrier's Safety and General Rules of Conduct to perform roll by inspections. The Claim alleged confusion and expressed fear that employees might be cited for failure to comply with the written Rule. As a remedy it asked that the matter be clarified in writing.

Carrier defended on a variety of grounds, contending among other things that the Claim was untimely and that it had full license to alter its Safety and General Rules. However, it refused to clarify in writing its oral instructions discontinuing certain inspection.

We agree with Carrier that it has full license to alter its Safety and General Rules in the circumstances present here, and decide which trains coming into the yard no longer require a roll-by inspection. However, we don't agree with the notion that the elimination or modification of critical Safety Rules can be done orally, through Gang Foreman, as was done here. Oral notice of modification or deviation of safety rules generates confusion and mistrust and is susceptible to misinterpretation as well as misapplication.


Accordingly, if Carrier wishes to continue the practice of not having certain trains be given a roll by inspection at Bluefield it shall issue a written notice and post on appropriate bulletin boards.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Deyer - Executive Secretary

Dated at Chicago, Illinois, this 20th day of February 1991.