

Award No. 253

Docket No. 260

2-MP-CM-'38

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That H. Duhon, car inspector, Alexandria, La., be compensated for all time lost subsequent to February 6, 1935, account of Car Oiler A. H. Ritchey, employed at passenger station, Alexandria, La., on the 11:00 P. M. to 7:00 A. M. shift performing car inspectors' work (carmen). viz:

Coupling and uncoupling hose,
closing and opening angle cocks,
repairing air, steam and signal
hose and hose gaskets.

EMPLOYEES' STATEMENT OF FACTS: H. Duhon was regularly employed as car inspector at Alexandria, La., from March, 1925, up to year 1932. Account of force reduction he was laid off in 1932, his employment continuing as extra car inspector up to latter part of year 1934. In October, 1934, he worked two days as car repairer on repair track, then laid off. In December, 1934, he worked nineteen days as car repairer on repair track and again laid off, and in January, 1935, worked one day on repair track, then disqualified account of consuming too much time on the particular work he was assigned to perform. He again resumed his employment as extra car inspector, he being at the time the oldest inspector laid off. He continued to protect the extra work up to and including February 6, 1935, on which date he worked as extra car inspector at Alexandria, La., passenger station on the 11:00 P. M. to 7:00 A. M. shift.

POSITION OF EMPLOYEES: That in joint conference held at Alexandria, La., August 9, 1937, employes were unable to develop any additional facts other than admission in conference by Car Oiler A. H. Ritchey that his duties did include coupling and uncoupling hose and that he assisted car inspector in making inspection and repairs; this also being augmented with statement of Car Inspectors Harvey and Elmer, submitted and marked employes' Exhibits 1 and 2.

Employes contend that it is a violation of Rule 116, as quoted in original submission, to assign Car Oiler Ritchey to perform carmen's work such as coupling and uncoupling hose, etc., and in support of same employes call the Honorable Board's attention to Awards No. 29 and 32, involving similar dispute on Missouri Pacific properties:

Award No. 29: "Carmen helpers will not be used to perform any operation in this class of work in violation of Rule 107."

Award No. 32: "Coupling and uncoupling air hose is recognized as carmen's work when performed in connection with their regular duties of inspection and repairs."

The above awards, as quoted, being identical with the instant case, it is requested that the Honorable Board sustain the original claim of employees.

CARRIER'S STATEMENT OF FACTS: This case was initially appealed to the National Railroad Adjustment Board on April 8, 1937, and covered by its Award No. 167, Docket No. 172. The facts in the case are as stated in the carrier's submission of April 24, 1937, and there has been no change subsequent to that date except that position of car oiler was abolished, January 24, 1938.

POSITION OF CARRIER: That work of coupling and uncoupling hose, closing and opening angle cocks, repairing air, steam and signal hose and hose gaskets under the supervision of the car inspector, which work was originally assigned to the car oiler at Alexandria passenger station up to the time that position was abolished on January 24, 1938, is work properly allocated under the wage rules of our agreement and practices thereunder to car oilers.

That there was no violation of our wage rules and/or practices thereunder and that there is no foundation or just cause for the employees' claim that Mr. Duhon, a laid off car inspector, be compensated at the car inspector's rate for the time worked by Car Oiler Ritchey as a car oiler at the Alexandria passenger station during period February 6, 1935, to January 24, 1938.

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.

The parties to said dispute were given due notice of hearing thereon.

This dispute was previously submitted to this Division and disposed of in the following manner. Award No. 167—Findings:

"In the employees' position it is contended that Oiler Ritchey is performing car inspectors' work, whereas the carrier's contention is that the oiler uncouples and couples air hose incidental only to his regular duties.

The situation presents a question of fact which should be decided by a joint check of the actual work being performed so that the work required may be assigned in accordance with the provisions in the rules of agreement.

The Second Division suggests an immediate investigation by both parties, jointly, to determine the facts, believing that an amicable adjustment may then be reached.

AWARD

Award rendered in accordance with the aforesaid findings, and with the further understanding that the dispute may be resubmitted to this Division by either party or both parties in the event of failure to reach a settlement."

The parties now re-present the issue without developing the information this Division referred to as being necessary to decide the dispute, in the award heretofore referred to.

AWARD

The parties are again requested to jointly determine the facts as contemplated in Award No. 167, and in the event they fail to reach an agreement disposing of the dispute, further handling before this Division will be in accordance with the Second Division's Award No. 167.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1938.