

Award No. 826

Docket No. 738

2-MP-CM-'42

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee I. L. Sharfman when award was rendered.

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: (a) That on March 6, 1941, at Council Grove and Horace, Kansas, Missouri Pacific Railroad Company did, and is, by the substitution of train crews for carmen in the inspection and air tests of passenger trains 11, 12, 15 and 16, violating Rule 25 (a), Rule 26 (a), Rule 117 and the following provisions on page 55 of the current wage agreement:

"This agreement becomes effective July 1, 1936 and shall continue in effect until changed in accordance with the procedure required by the Railway Labor Act."

(b) That the work of inspecting and making air tests on passenger trains 11, 12, 15 and 16 at Council Grove and Horace, Kansas, be restored to carmen.

EMPLOYEES' STATEMENT OF FACTS: a. On March 5, 1941 two shifts of car inspectors were employed at Council Grove, known as day shift and night shift. On day shift a small repair force was employed, including O. E. Hart, who had a combination job of working on repair track and also inspecting freight trains and freight equipment on arrival and departure, there being no passenger trains scheduled for arrival at Council Grove during his tour of duty from 7:00 A. M. to 4:00 P. M.

On night shift the force consisted of one man, Car Inspector Murray, working from 8:00 P. M. to 5:00 A. M., with one hour off for lunch, his assigned duties being the inspection of freight and passenger car equipment on arrival and departure. During his tour of duty the following passenger trains arrived and departed:

Train No. 11—westbound—arriving	Council Grove 9:35 P. M.)	Nationally known "Scenic Limited"
	due to depart 9:40 P. M.)	
Train No. 12—eastbound—arriving	Council Grove 4:28 A. M.)	
	due to depart 4:33 A. M.)	
Train No. 15—westbound—arriving	Council Grove 1:26 A. M.	
	due to depart 1:31 A. M.	
Train No. 16—eastbound—arriving	Council Grove 10:58 P. M.	
	due to depart 11:03 P. M.	

"Rule 41. (Association of American Railroads Operations and Maintenance Department Mechanical Division) On a freight train, before an engine is detached or an angle cock closed on an engine or a car, the brake must be fully applied. After recoupling and opening the angle cock and before proceeding, it must be known that the brake pipe pressure is being restored as indicated by the caboose gauge and that the rear brakes are released. In the absence of a caboose gauge, a test must be made as prescribed in Rule 40."

Your Honorable Board has heretofore ruled in numerous cases that work incidental to testing of the train brake system is not a violation of the carmen's classification of work rules, see Second Division Awards 457, 664 and 682.

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.

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

The evidence of record does not, in the circumstances of this proceeding, disclose any violation of the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of October, 1942.