

Award No. 909

Docket No. 835

2-ACL-CM-'43

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Herbert B. Rudolph when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the work necessary in converting twenty-five recently rebuilt freight cars to passenger train railway express cars was work properly belonging to and, therefore, should have been performed by employes of the coachmen and engine carpenters seniority roster division.

That the freight carmen assigned to perform this work, as hereinafter listed, be compensated in the amount as therein set out, which amount represents the difference between the rate received for the hours so assigned and the rate applicable under the rules for the work performed.

Employees involved and amounts claimed are as follows:

Name	Hours Worked	Difference in Pay Claimed
J. E. Aldridge	71	\$ 4.97
B. H. Simms	88	6.16
J. G. Thompson	72	5.04
R. F. Smith	60½	4.23
Robert Regules	64	4.48
E. A. Sauls	11½	.80
O. A. Waters	72	5.04
D. C. Herrin	80	5.60
W. F. Wasden	80	5.60
Ward Sloan	80	5.60
C. H. Tanner	80	5.60
E. M. Barnwell	64	4.48
D. E. Mullis	29	2.03
J. A. Bailey	80	5.60
Lester Johnson	80	5.60
J. M. Barnhill	80	5.60
L. W. Gerald	80	5.60
W. K. Sloan	88 A.B.R.	6.16
Jack Swain	96 Painter	6.72
Jack Carter	96 "	6.72
M. V. Wright	50	13.50
Lee Robbins	37½	10.12

The color scheme on these cars was also changed to a dark green to better harmonize with any type of equipment and about the only difference in the stenciling on these cars compared with the stenciling on other box cars was that the words "Railway Express Agency" were added.

The employes in their claims are trying to infer that this was a higher skilled class of work than the ordinary freight car work and that coach repairers' rates and coach painters' rates should be allowed all employes engaged in this work, while the carrier contends that the work in equipping these cars was nothing other than ordinary freight car work and the rates governing freight car repairers and freight car painters were applied in accordance with Rule 28 of the agreement between the Atlantic Coast Line Railroad Company and the Employes of the Mechanical Department.

Carrier submits as Exhibit A photographs of the converted cars which show them to be nothing other than ordinary box cars equipped with trucks making them safer for high speed service.

Carrier submits as Exhibit B a pamphlet from the Allied Railway Equipment Company showing the type of truck used under these cars. It is noted that this truck is known as the Allied Full Cushion Freight Car Truck. (Carrier does not have sufficient pamphlets for each submission furnished to the Board.)

Carrier therefore contends that there is nothing to this claim. It is just an attempt to extort an additional rate of seven cents (7¢) per hour that is not justified by the agreement. The photographs clearly show that the car is nothing else than a box car which has been designed for fast service, but this does not justify the claim that this work must be done at passenger car rates.

The carrier also contends that the color of the paint has nothing whatever to do with any justifiable claim for an additional rate. We respectfully ask the Board to dismiss this claim.

Carrier reserves the right if and when it is furnished with the petition filed ex parte by the petitioners in this case which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioners in such petition and which have not been answered in this its initial answer.

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 facts of record fail to show that claimants are entitled to the rate of pay provided in Rule 28 for "passenger train car builders and repairers."

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 7th day of June, 1943.