

Award No. 922

Docket No. 841

2-CB&Q-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. 95, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

**CHICAGO, BURLINGTON AND QUINCY RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYES: That the carrier violated the October 1, 1940 agreement by:

- (a) Transferring the packing room from the Mechanical Department to the storehouse.
- (b) Laying off Carman Helper H. Anderson, regular assigned attendant in the packing room at 4:30 P. M. on April 24, 1942.

That in consideration of the aforesaid violations, carrier be ordered to:

- (a) Restore the packing room to the Mechanical Department, and
- (b) Restore Carman Helper H. Anderson to service with compensation for all time lost since April 24, 1942.

EMPLOYES' STATEMENT OF FACTS: At St. Joseph, Missouri shops, carrier maintained in the mechanical department a packing room, in which the claimant, Carman Helper H. Anderson, was regularly assigned from 8 A. M. to 4:30 P. M. six days per week.

On or about April 24, 1942, carrier arbitrarily transferred the packing room equipment and work a distance of about three hundred feet to the store department employees, and at 4:30 P. M., April 24, 1942, claimant was arbitrarily laid off.

Claimant H. Anderson entered the service of the carrier as a carman helper on April 16, 1937, and he continued in the service as such until laid off on April 24, 1942.

The carrier has declined to restore the packing room work to the carman or restore the claimant to service with compensation for all time lost.

At the time the claimant was laid off as packing room attendant, he was reclassified as laborer.

This packing room work has been performed by carmen helpers since April 16, 1937.

rests; reclaiming usable material from condemned cars; operating cutting torches, and other similar work shall be classed as Car Helpers and shall be paid.....
for less than 306 days' service as a helper, 58¢ per hour (now 68¢ per hour)

for more than 306 days' service as a helper, 60¢ per hour (now 70¢ per hour)

(Emphasis Ours)

Employees now required to perform the service here made a basis of dispute **are not in the mechanical department**. Therefore, this work is not within the purview of agreement relied upon by the claimants. This was definitely understood when the agreement of October 1, 1940, was negotiated as will be hereinafter conclusively proved.

The rule covering the classification of carmen helpers proposed by the petitioning organization in negotiations which culminated in the agreement effective October 1, 1940, reads as follows:

Employees regularly assigned to help carmen and apprentices, employes engaged in washing and scrubbing the inside and outside of passenger coaches preparatory to painting, removing of paint on other than passenger cars preparatory to painting, stock keepers (car department) operators of bolt threaders, nut tappers, drill presses and punch and shear operators (cutting only bar stock and scrap) holding on rivets, striking chisel bars, side sets, and backing out punches, using backing hammer and sledges in assisting carmen in straightening metal parts of cars, cleaning journals, assisting carmen in erecting scaffolds, and all other work generally recognized as carmen's helpers' work, shall be classed as helpers.

The carrier respectfully requests that cognizance be taken of the fact that no reference whatever is therein contained with respect to "Packing Room Attendants."

Moreover, in letter dated September 8, 1942, System Federation No. 95 served notice under Section 6 of the Railway Labor Act as amended of desire to revise the agreement of October 1, 1940. This letter is submitted herewith as carrier's Exhibit No. 1. The provision proposed by the organization dealing with work which should be performed by carmen helpers, as set forth in proposed agreement which accompanied Exhibit No. 1, reads as follows:

Employees regularly assigned to help carmen and apprentices, employes engaged in washing and scrubbing the inside and outside of passenger coaches preparatory to painting, removing of paint on other than passenger cars preparatory to painting, car oilers and packers, stock keepers (car department) operators of bolt threaders, nut tappers, drill presses and punch and shear operators (cutting only bar stock and scrap) holding on rivets, striking chisel bars, side sets, and backing out punches, using backing hammer and sledges in assisting carmen in straightening metal parts of cars, rebrassing of cars in connection with oilers' duties, cleaning journals, repairing steam and air hose, assisting carmen in erecting scaffolds, and all other work generally recognized as carmen's helpers' work, shall be classed as helpers.

Thus it will be seen that the petitioning organization has definitely recognized that it does not have jurisdiction over work such as that involved in the instant dispute and the proposed schedule provision hereinabove quoted is positive verification of that fact.

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.

Neither practice nor the nature of the work of reclaiming journal box packing on this carrier makes such work exclusively the work of mechanical department employes. The record discloses that on this carrier the work is performed by both stores department and mechanical department employes. Nor does Rule 70 give mechanical department employes the exclusive right to this work; this rule refers to "Packing Room Attendants in the Mechanical Department," clearly implying that there might be packing room attendants in some other department. Rule 70 simply provides that employes assigned to perform work of packing room attendants in the mechanical department shall be classed as carmen helpers and paid a certain rate, and does not purport to give to mechanical department employes the exclusive right to the work here involved.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 8th day of June, 1943.