Award No. 1122
Docket No. 1064
2-D&RGW-CM-'46

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Sidney St. F. Thaxter when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 10, RAILWAY EMPLOYES' DEPARTMENT, A. F. OF L. (CARMEN)

THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That within the intent of the controlling agreement, particularly Rule 36, the carmen employed in the train yard at Salida, Colorado, believe that they are unjustly dealt with because they are assigned or required by the carrier to inspect and repair cars in trains on the main line within or adjacent to the train yard.

2. That the carrier be ordered to disestablish the improper assignment of these carmen to inspect and repair cars on the main line of Salida, Colorado.

EMPLOYES' STATEMENT OF FACTS: At Salida, Colorado, the carrier maintains a force of carmen in the train yard as follows:

4 carmen..... 7:00 A. M. to 3:00 P. M.
4 carmen..... 3:00 P. M. to 11:00 P. M.
4 carmen.....11:00 P. M. to 7:00 A. M.

These carmen on each shift are assigned to do the same work on a train of cars on the main line as they do on a train of cars in the train yard, including the adjusting of the air brakes piston travel to the required specifications which necessitates these carmen working under these cars on the main line as shown in pictures, Exhibits 6 and 7, submitted herewith.

These carmen place a blue flag by day or a blue light by night at both ends of the train when working a train of cars either in the train yard or on the main line. However, when working on a train of cars in the train yard they have the additional protection of the yard switches and the satisfaction of knowing the switching crews do not switch cars on a track while such track is under blue flag or blue light protection.

Blue flags are necessarily dark and harmonize with the surroundings, making them difficult to distinguish in the day time, and blue lights are a "dark light" and very difficult to distinguish for any distance at night.

The view of these signals when displayed on the main line at Salida is obstructed by the curvature conditions of the main line tracks approaching the train yards as shown in pictures, Exhibits B, 1, 2, 3, 4, 5, submitted herewith.

"second and inferior class trains, extra trains, yard engines, and light engines, **must move within yard limits prepared to stop unless the track is seen or known to be clear**"; and "in case of collision, responsibility rests with the approaching train or engines." (Emphasis supplied.)

This rule is likewise rigidly enforced on this property, and, of course, has application to the same extent and degree, irrespective of whether main tracks within yard limits are tangent or on a curve.

In addition to Agreement Rule 36 and Operating Rule 93, there is located in the east end of Salida yard—east of where the freight trains involved come to rest on the main track—a stop and proceed signal. This signal, of course, is automatically set against any approaching trains or engines in event freight trains are being inspected on the main track, and when so set, it requires approaching trains or engines to stop and proceed at not to exceed a speed of eight miles per hour, expecting to find a train in the block, broken rails, obstruction, or switch not properly lined.

The carrier contends it is common practice everywhere to inspect trains, both passenger and freight, on main tracks, particularly passenger trains, within yard limits. No protest has ever been made on this property with respect to inspecting passenger trains on the main line, and the carrier asserts, outside the fact it consumes more time to inspect a freight train, there is no vital difference in the work.

The provisions of Rule 36 (e) afford ample protection to the carmen involved, and with the additional protection of Rule 93 and the stop and proceed signal located in the east end of Salida yard, the carrier asserts there is no merit to the grievance, and the same should be denied.

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.

There is no rule of the controlling agreement which covers the question here involved. If, because of the peculiar conditions at the Salida yard, further safety precautions are necessary than are prescribed by Rule 36, it is a matter for negotiation between the parties. This Board cannot make or amend a rule. It is bound by the agreement which the parties have made. In this instance there was no violation of any rule.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 14th day of March, 1946.