

Award No. 1218

Docket No. 1161

2-CB&Q-CM-'47

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee George A. Cook when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (CARMEN)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That the proper inspection of outbound passenger trains at the St. Joseph, Missouri, Union Station requires that car inspectors actually make a terminal train brake test on all trains OK'd by them.

That performance of the aforesaid work by other than car inspectors should be discontinued as it constitutes an improper inspection and deprives car inspectors of work to which they are entitled under the current collective agreement.

2. That retroactive to October 19, 1946 (the date on which protest was filed), and until such time as the car inspectors are permitted to make the proper inspection, the carrier should be ordered to additionally compensate the three shifts of car inspectors at St. Joseph, Missouri, for any overtime lost by them because of the performance of the instant work by trainmen.

EMPLOYES' STATEMENT OF FACTS: There are three shifts of car inspectors regularly employed at the Union Station, St. Joseph, Missouri.

These car inspectors make a daily report (See Exhibit A, submitted) in regard to their inspection of passenger trains departing during their tour of duty, but the carrier will not permit them to make the terminal train brake tests of the trains they O.K., although at other points on this railroad car inspectors make terminal air brake tests in connection with their inspection of outbound trains. (See Exhibit B, submitted; also B-1, B-2, B-3 and B-4.)

The agreement, effective June 16, 1944, is controlling.

POSITION OF EMPLOYES: The inspection of outbound passenger trains necessarily includes an examination and test of air brake appliances in order to ascertain whether or not they are in effective operating condition; therefore, the claimants, who hold their positions as car inspectors under the controlling agreement, and who have knowledge of safety appliance laws as required under Rule 80 thereof, should be permitted to make

The sole issue here involved is that of requiring trainmen to make the "set" and "release" air test. As is herein conclusively shown, the service made the basis of dispute is that incidental to their duties as train service employes, and is not a violation of the carmen's classification of work rule.

In conclusion the carrier avers that a sustaining Award is precluded by reason of:

- (1) It being a practice of many years' duration, under the specific provisions of Article (1) of the memorandum of agreement dated May 16, 1944, any change therein is prohibited unless and until changed by the parties in accordance with the provisions of Section 6 of the Amended Railway Labor Act;
- (2) The service made the basis of dispute is not, nor has it previously been recognized as carmen's work, neither does it come within the purview of the carmen's classification of work rule.
- (3) Awards of the Second Division of the National Railroad Adjustment Board hereinbefore cited support the assertions contained in Items 1 and 2 hereof.
- (4) In light of the record, the carrier contends that this case must in all things 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.

The evidence in this case does not warrant classifying the standing "set" and "release" test as now performed at St. Joseph, Missouri, as a violation of the current agreement.

The carrier should not require car inspectors to make "Air O.K." reports in instances where they do not make the tests.

AWARD

1. Claim denied in accordance with the findings.
2. Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of December, 1947.