

Award No. 1375

Docket No. 1299

2-MP-CM-'50

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke 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 under the current agreement the carrier improperly changed the classification and rate of pay of Locomotive and Coach Painter Elmo Powers to that of a freight car painter on January 6, 1949.

b) That accordingly the carrier be ordered to restore this employe to his original status and reimburse him for the wage loss suffered, retroactive to the aforementioned date.

EMPLOYEES' STATEMENT OF FACTS: Elmo Powers, hereinafter referred to as the claimant, was employed as coach and locomotive painter at Omaha, April 9, 1947, and paid coach and locomotive painters' rate of pay. At times when he was caught up with his locomotive painting, he was required to paint freight-car equipment but without any change in his rate of pay. On or about August, 1947, local supervision instructed claimant to change his classification to freight-car painter but he would continue painting coaches and locomotives as well as freight cars, but would be paid the higher rate of pay on coach and locomotive work. This change in classification was protested by local and general committees as it meant a reduction in pay, since the rate for freight-car painter was \$1.32 per hour and for coach and locomotive painter \$1.39 per hour. Subsequently, the complaint was referred by letter to Chief Mechanical Officer Christy, (See employees' Exhibit A, submitted), contending that it was a violation of Rule 11 of current agreement to change claimant's title. On November 28, 1947, Mr. Christy advised that the necessary adjustment had been made. (See employees' Exhibit B, submitted).

On December 30, 1948, Bulletin No. 75 was posted at Omaha, reading:

"Effective at quitting time January 5, 1949, the following job will be abolished as per Rule 21—

One Locomotive & Coach Painter

Hours of service—8:00 A. M. to 12:00—12:30 P. M. to 4:30 P. M.

Party affected—Elmo Powers

Elmo Powers will exercise his seniority as per Rule 25.

/s/ F. A. Schultz—Gen. Car
Foreman"

"Rule 11. When an employe is required to fill the place of another employe receiving a higher rate of pay, he shall receive the higher rate; but if required to fill temporarily the place of another employe receiving a lower rate, his rate will not be changed."

The employes do not cite any rules of the agreement that were violated when the position of locomotive and passenger-car painter was abolished.

It is the carrier's position that this claim is wholly without merit, is without support under the working agreement and that it should, therefore, 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.

For many years prior to January 5, 1949, the carrier maintained at Omaha, Nebraska, the position of locomotive and coach painter. The occupant of that position, claimant here, painted passenger cars, locomotives and freight cars. When the work to be done at Omaha became predominantly that of freight car painting, the carrier, effective January 5, 1949, abolished the position of locomotive and coach painter. Thereafter this work was assigned to and performed by a freight car painter.

We find nothing in the rules of the parties' effective agreement that prevented carrier from so doing. In the absence thereof it had such right. Of course, if the occupant of the position of freight car painter performs work of painting either locomotives or coaches he must be paid accordingly.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of February, 1950.