

Award No. 1424

Docket No. 1343

2-IC-CM-'51

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Frank M. Swacker when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement the work of applying sealer cement or substitutes therefor in connection with the maintenance of box cars in first class condition against leakage of materials as well as against inclement weather damaging the products loaded therein is carmen's work and not that of carmen helpers.
2. That accordingly the carrier be ordered to assign the aforesaid work to carmen.

EMPLOYES' STATEMENT OF FACTS: At Johnston Car Shop, Memphis, Tennessee, beginning with May 23, 1949, the carrier has assigned carmen helpers to apply substitutes for weather stripping, such as sealer cement, to maintain box cars suitable for loading with certain commodities, to prevent leakage and/or the damaging thereof by inclement weather through nail and bolt holes, cracks in roofs, ends, sidings, etc.

The agreement effective April 1, 1935, as subsequently amended is controlling.

POSITION OF EMPLOYES: The carmen's classification of work rule 127, reads in part as follows:

"Carmen's work shall consist of building, maintaining . . . freight cars, both wood and steel, . . ."

The application of sealer cement or its substitute to freight cars to make them water tight falls in the category of maintaining freight cars as outlined in the above mentioned rule. After freight cars have been in service for long periods of time, they become unsuitable for some kinds of commodities because of water and snow leaking into the car through cracks and nail holes, etc. In maintaining these cars, this sealer cement is applied to cracks and holes in roofs and siding to make them serviceable again. Such sealer is also applied to new cars while being built to make them water tight.

permitted to perform repair or maintenance work within the meaning of Rule 107 of the current agreement." On this property, just as were the facts in case covered by Award No. 33, it has been the past practice for a number of years for other than carmen to cooper box cars for loading where necessary. The sealer cement used at Memphis is applied to the small openings in order that the cars may be used for certain loading and is not repair or maintenance work. Carmen helpers perform similar work requiring different degrees of skill and experience or no skill or experience, which work can be differentiated as follows:

Duties Enumerated in Rule 129

Requiring Some Experience	Requiring Less Experience	Requiring No Experience
Operators of bolt threaders, nut tappers, drill presses and punch and shear operators; re-brassing of cars in connection with oilers' duties; repairing steam and air hose; applying fitting and removing car and tender journal bearings; stockkeepers; car oilers, and packers; cleaning journals; tool room attendance in Car Department.	Removing of paint on other than passenger cars preparatory to painting; 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; assisting carmen in erecting scaffolds.	Wash and scrubbing the inside and outside of passenger coaches preparatory to painting. Operating sand blast machines.

The duties listed above as requiring no experience are such that they can readily be performed by an employe with no experience and such duties are comparable to filling or dobbing this cement over small holes or cracks. It is not repair or maintenance work, but rather work of a nature that is incidental to that performed by employes preparing or servicing cars for loading. For instance, there is a similar cement or coating that is used over oil or grease stains to avoid damage to lading and applied in about the same manner. Any repairs or renewals necessary are made by mechanics in conformity with the agreement.

Particular attention is called to the last part of Rule 129 reading, "and all other work generally recognized as carmen helpers' work, shall be classed as helpers." This part of Rule 129 provides for the continued use of carmen helpers in the application of sealer cement in the same manner as this work has been performed prior to the effective date of the current rules agreement and subsequent thereto for some fourteen years, or until the instant dispute arose.

This sealer cement is stocked at all large freight houses, and it is the practice for other classes of employes to use this cement or other cooperage materials over small holes or cracks preparatory to loading of such cars. This is the usual and customary practice in the industry and was so recognized by this Board in Award No. 33.

Inasmuch as this work is not included in the classification of work rule for carmen and similar work is covered by the carmen helpers' classification of work rule, it is the contention of the carrier that this work has properly been performed by carmen helpers. This is evidenced by the fact that such practice was followed for some fourteen years without protest, and in view of this acquiesced in practice, this period of time and the rules involved, the carrier requests that the claim 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.

Carmen's Special Rules 127 and 129 define with much particularity the work belonging respectively to carmen and carmen helpers. Neither of these rules specifically defines the particular work involved in this claim. It is work of a character that reasonably could be performed by either a carman or a carman's helper.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March, 1951.