

Award No. 1440
Docket No. 1350
2-SPL(T&NO)-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. 162, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)

SOUTHERN PACIFIC LINES IN TEXAS AND LOUISIANA
(TEXAS AND NEW ORLEANS RAILROAD COMPANY)

DISPUTE: CLAIM OF EMPLOYES: 1. That the unilateral action of the carrier at Sanderson, Texas, in abolishing all positions in the car department effective August 11, 1948, and bulletining all car department positions as new jobs on the same date without any change in hours and duties, was improper.

2. That the carrier be ordered to restore all positions as they were prior to August 11, 1948.

EMPLOYES' STATEMENT OF FACTS: Prior to August 11, 1948, all positions in the Sanderson, Texas car department were, and had been, assigned by bulletin as follows:

1 lead car inspector, 7 days per week, 7 A.M. to 3 P.M. including 20 minutes for lunch, held by C. I. White.

2 car inspectors, 7 days per week, 7 A.M. to 3 P.M. including 20 minutes for lunch, held by H. C. Rock and S. D. Thompson.

3 car inspectors, 7 days per week, 3 P.M. to 11 P.M. including 20 minutes for lunch, held by J. W. Wolfe, H. A. Mullings and C. H. Werneking, Jr.

3 car inspectors, 7 days per week, 11 P.M. to 7 A.M. including 20 minutes for lunch, held by R. Sanchez, G. B. Rodriguez and F. O. Villanueva.

2 car repairers, 6 days per week, 7 A.M. to 12 Noon and 1 P.M. to 4 P.M., held by F. Venegas and F. M. Lopez.

3 car repairmen helpers, 6 days per week, 7 A.M. to 12 Noon and 1 P.M. to 4 P.M., held by M. C. Gutierrez, P. Escamilla, Jr., and G. G. Esqueda.

carrier sought to erase the technical basis for such a penalty and arbitrary claim. The carrier holds that no provision of any law or of any agreement restricts its right to change the assignment titles as they were changed.

Wherefore, premises considered, the carrier respectfully urges that the claim be in all things 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 employees 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.

At Sanderson, Texas, previous to August 11, 1948 there had been employed and assigned as car inspectors three carmen on each trick around the clock. In addition thereto two other carmen were assigned to repairs at repair track for only the first trick each day. It was the agreed to practice, which is not disputed by the parties, that when the inspectors had no trains in the train yard they were properly sent over to the repair track to work on repairs there; also that when there was need in the train yard for additional inspector work on passing trains, the carmen assigned on the repair track might properly be required to leave that work to go over and assist the inspection. The respective jobs had been bulletined as "car inspectors" and "car repairers" on the repair track. Because of the occupational distinction of the bulletins, the local chairman conceived the idea that the advertisement limited the assignments so as to preclude the interchanging of the work as above described and filed claims. These claims were apparently later abandoned. The carrier being apprehensive that the descriptions of the positions in the bulletins might sustain such a claim abolished all the positions and re-advertised them on August 11, 1948 merely denominating the occupation "carmen." This without regard to whether they were engaged primarily on inspection or primarily on repair track. No change was made in the hours of assignments nor the occupants thereof, nor in any other respect, except in the occupational designation. However, this change is the primary source of the complaint herein. The organization now is apprehensive that under the present occupational description the carrier would be free promiscuously to use the men with a result that their seniority would, in effect, be worthless to them. The employees illustrate that with no more designation or description of the job than the general craft name, the carrier could shift men from one job to another at will. The complaint is that the new bulletin is entirely too vague, and their distinct jobs susceptible of further description than merely the general craft name. The inspector jobs are, of course, preferable to the car repair jobs. From its hours, an employe might bid in what he supposed to be an assignment, the primary function of which was "car inspection" and find himself relegated by his foreman to a "repair job" while the junior man was performing the car inspection work. In this respect the employe's complaint is sound—the bulletins complained of are entirely too vague. There are jobs, the primary function of which is "car inspector" but who may be used on repair work when not needed on inspection. On the other hand, there are jobs the primary function of which is repairs on repair track but who may be used when necessary for inspection on the train yard tracks. Cumbersome though such a description may seem, the jobs ought to be so advertised and bulletined so that they might be identifiable for purpose of exercising seniority. They should therefore be re-bulletined so that they are identifiable.

As to prayer two of the petition, that the situation prevailing prior to August 11, 1948 should be restored: This matter has become moot con-

sidering the re-arrangement of assignments brought about by the 40-hour week.

AWARD

Claim to be disposed of as per above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of March, 1951.