

Award No. 1501
Docket No. 1395
2-AT&SF-CM-'52

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Jay S. Parker when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Carmen)**

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
SYSTEM (Eastern Lines)**

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the carrier improperly transferred to store department laborers the work of dimensioning used refrigerator floor racks for use as loading pallets.

2. That accordingly the carrier be ordered to restore the aforesaid work to the carmen's craft.

EMPLOYES' STATEMENT OF FACTS: At Wichita, Kansas, the carrier maintains a large refrigerator car fabricating shop, and a large force of carmen, carmen apprentices and carmen helpers.

About May 1, 1949, the carrier started making loading pallets at Wichita, from material salvaged from used refrigerator floor racks. These loading pallets are used by the stores department and the custom is to load the material on the pallet, then a fork mobile truck picks up the pallet and material and delivers it to its destination within the shop. It has been the practice since the inception of the next above program of converting old floor racks into pallets, to bring the material into the wood mill, cut the material to length with a power wood cutoff saw, using a crew of carmen and carmen helpers to perform the work.

On May 4, 5 and 8, 1950, the supervision at Wichita Shop assigned two store department laborers to cutting off the floor rack material with a hand saw. Between May 8 and 15, 1950, the work in dispute was returned to the carmen's craft, but since May 15, 1950, the cutting of the material has been assigned to laborers of the stores department.

The agreement effective August 1, 1945, and subsequently amended, is controlling.

POSITION OF EMPLOYES: It is submitted that within the language of Rule 102 in applicable part, reading:

“. . . and all other carpenter work in shops and yards, except work generally recognized as Bridge and Building Department work, . . . and all other work generally recognized as Carmen's work.”

(c) work which requires the training and experience necessary to lay out, build or perform the work of a carman in a mechanical manner (See shop crafts Rule No. 101)

(d) work which consists of building, maintaining, dismantling for repairs, painting, upholstering or inspecting passenger or freight cars (See shop crafts Rule No. 102).

A cross-cut hand saw in the hands of an employe of the purchasing and stores department does not make of that employe either a carpenter or a carman.

The discarded refrigerator floor racks are not dimensioned. No measurements are taken. This is rough sawing. No skill is required. It is purely manual labor. It is work purely incidental to the duties of the purchasing and stores department employes who do such work. The instant dispute is without merit or schedule support and 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.

The preamble of the current agreement, which must be given equal force and effect and considered in conjunction with all rules incorporated therein, provides that the agreement shall apply to employes who perform work outlined thereon in three departments under the jurisdiction of the carrier's operating department, one of such departments being the maintenance of equipment department.

Pertinent provisions of Rule 102 of the agreement, on which the employes rely to sustain the claim, read:

"Carman's work shall consist of building, maintaining, dismantling for repairs (except all-wood freight train cars), painting, upholstering and inspecting all passenger and freight cars, both wood and steel, planing mill, cabinet and bench carpenter work, pattern and flask making and all other carpenter work in shops and yards, except work generally recognized as Bridge and Building Department work; * * *".

When considered together we do not believe the preamble and the portion of Rule 102 heretofore quoted can be construed as comprehending that the work performed in making discarded refrigerator floor racks into pallets after they have been taken from refrigerator cars by carmen and then turned over to the carrier's purchasing and stores department for use as scrap material is carman's work.

In an obvious attempt to forestall the foregoing conclusion the employes rely upon past practice. This claim is based upon unsupported statements in their ex parte and rebuttal submissions to the effect that since the carrier started making loading pallets the work involved has been performed by carmen and carmen helpers and has been recognized by it as work belonging to members of that craft. This is flatly denied by the carrier who, with statements of like character, asserts the work has been performed by employes of its purchasing and stores department. With the record in such a state we cannot reach out and pass upon the facts and it cannot be said the employes have sustained the burden of establishing any practice whatever.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman,
Executive Secretary

Dated at Chicago, Illinois, this 10th day of January, 1952.