

Award No. 1505
Docket No. 1418
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**

DISPUTE: CLAIM OF EMPLOYES: 1. That removing and applying truck side frames, truck bolsters, wheels, car sides, roofs, ends and doors, in connection with building and maintaining freight cars or the dismantling thereof for repairs, is Carmen's work under the current agreement.

2. That it is improper, under the current agreement, to assign other than Carmen to operate derricks to assist Carmen in performing the aforesaid work.

3. That accordingly the Carrier be ordered to assign Carmen to perform the aforementioned work in Items 1 and 2 hereof.

EMPLOYES' STATEMENT OF FACTS: At Chicago, Illinois in the carrier's Chicago car works shop, the carrier maintains facilities for building, maintaining and dismantling for repairs to freight cars, including a force of approximately 100 carmen, and carmen helpers.

The carrier operates in this shop, one rail self-propelled derrick, known as the Burro Crane No. 734, a 7½-ton machine, with a 7½' radius, to remove and replace truck side frames, truck bolsters, truck wheels, car sides, roofs, ends and doors and other similar work to expedite the duties of carmen assigned to building, maintaining and dismantling cars for repairs.

Since May 22, 1950, the Burro Derrick in the Chicago car work shop has been operated by Charlie Wynn, a carman helper, who is working under the shop crafts' agreement dated August 1, 1945. Wynn is not a carman.

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

POSITION OF EMPLOYES: It is respectfully submitted to be, as described in the foregoing statement of facts, indisputable that this derrick operator is substituted for carmen and is assigned to perform carmen's work, defined as such in the classification of work provisions of Rule 102, particularly that part thereof which reads:

to carmen. Such work is being and has been performed by carmen. Any statement to the contrary is based on pure fabrication.

As to item (b): The machine at the Chicago car works, Chicago, Illinois, which the carmen's brotherhood is contending should be operated by a carman instead of a carman helper, is not a derrick. It is a Burro crane, i.e., a mobile boom-crane. The operator of this Burro crane is a carman helper, classified and paid as such, in accordance with shop crafts' Rule No. 104 and the wage appendix of the shop crafts' agreement, effective August 1, 1945. The Second Division has no authority to order the carrier to assign a carman to operate this Burro crane in direct contravention of a mutually agreed upon rule which provides, without ambiguity, that carman helpers shall operate such machines.

The provision of the agreement that boom-cranes shall be operated by helpers of the crafts (carmen's craft in this instance) is consistent with the practice generally in effect on this property of having helpers operate lifting cranes used for conveying heavy materials from one location to another and for lowering parts from locomotives and cars when being dismantled for repairs or lifting such parts when locomotives or cars are being repaired or rebuilt. For example, the operation of overhead traveling cranes has, by agreement, been recognized as the work of electrician helpers to the same extent that the operation of mobile boom-cranes have been recognized by agreement as the work of regular helpers of the different crafts. The former is specifically covered by Rule 97 of the electricians' special rules, which reads:

"Rule 97. Operators of traveling overhead electric cranes of less than forty (40) ton capacity, will be selected from electrician helpers and, if full time assignment necessary, will be regularly assigned. Operators of such cranes will clean and lubricate them. They will be paid thirteen cents (13c) per hour above the minimum rate paid electrician helpers at point employed."

The operators of the traveling overhead cranes in certain instances perform identical operations involved in the present dispute, in that crane operators move the crane from one location to another to pick up a pair of trucks, a car door, a car side and roof, etc., conveying it to the location where the repairmen are assembling the car and set the material in the proper place or hold it in place while the carmen, assisted by a helper or apprentice, set the parts into proper place and temporarily fasten them, preparatory to rivetting. There has never been any restrictions as to the use of overhead traveling cranes in handling this work and obviously there can be none, either in respect to the use of traveling overhead cranes or the use of mobile boom-cranes without nullifying and avoiding the appropriate rules of the agreement themselves.

In conclusion, the carrier respectfully requests the Second Division to dismiss the instant dispute for lack of jurisdiction on the grounds that the instant dispute does not contain either the elements of a dispute growing out of a grievance or involving a question which requires the interpretation or application of an agreement or an agreement rule.

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 waived right of appearance at hearing thereon.

Based on our decision in Award 1502 (Docket No. 1396), which from the standpoint of governing facts, issues, and principles involved is not distinguishable, we hold the record in the instant case does not warrant a sustaining award.

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.