

Award No. 1555

Docket No. 1441

2-ART-CM-'52

**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:

**BROTHERHOOD RAILWAY CARMEN OF AMERICA
RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.**

AMERICAN REFRIGERATOR TRANSIT COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement it is improper to assign carmen helpers to dismantle sections of steel roofs on refrigerator cars.

2. That accordingly the carrier be ordered to assign carmen mechanics to perform this class of work.

EMPLOYES' STATEMENT OF FACTS: The American Refrigerator Transit Company, hereinafter referred to as the carrier, maintains shops at St. Louis, Missouri; Kansas City, Kansas, and Pueblo, Colorado. The Pueblo shop is rebuilding steel roof refrigerator cars, which are stripped of all parts from steel roof to steel underframe, after these parts are removed, the steel roof is lowered to steel underframe to be moved to steel gang, who are carmen mechanics. The steel roof is then raised to remove steel underframe from under steel roof and the steel roof is placed upon the ground, awaiting the steel gang to repair steel underframe. After carmen mechanics repair the steel underframe, then the painters spray the steel underframe, the steel roof is raised off the ground and steel underframe is moved back under the steel roof. The steel roof is lowered to steel underframe to be moved along production track.

The carrier then assigns a carman helper to dismantle sections of steel roof cars, carman helper uses a pneumatic riveting hammer to punch out rivets in sections of steel roof, uses a hand hammer, cold chisel, sledge hammer and wrecking bar to remove hatch tins from hatch boxes, cuts nails out of hatch boxes with hand hammer and cold chisel, uses sledge hammer and wrecking bar to remove caps from seams of steel sections, lifts the end steel sections that fits around hatch boxes to be placed on ground. Carman helper bolts a steel channel onto the steel sections, using $\frac{3}{8}$ bolts, so the steel sections can be removed from roof, and placed in position on the ground that they can be replaced back on roof of same car after carmen mechanics rebuilds the roof with such parts as side and end plates (wood), tie rods, roof insulation, ceiling and etc.

The agreement effective December 1, 1944, is controlling.

rigid riveted steel roofs and flexible steel roofs from wood superstructure cars for years.

The employes' organization has presented two grievances regarding stripping rigid riveted roofs from wood superstructure cars; one at Pueblo, April 17, 1951, and one at St. Louis, May 6, 1951. There are submitted herewith and identified as Exhibits Nos. A, B, C, D, E, F and G, copies of letters concerning these grievances.

No conferences on these grievances were requested and none were held.

In the letter of April 17, 1951, Exhibit A, the acting general chairman objects to employes using pneumatic rivet hammers to punch out rivets, to the use of a sledge hammer, hand hammer, cold chisel and wrecking bar to remove roofs. These are the same tools used in the stripping operation on sides, ends, doors, bunkers, floors, lining, etc. There is no provision in Rule No. 48 that helpers cannot use tools to perform their work.

In the letter of April 24, 1951, Exhibit C, the acting general chairman objects to the location in the shop at which work is performed. Rule No. 48 does not provide that all stripping must be done on a "stripping track." The location in the shop at which the stripping operations are done is the carrier's choice, and the location selected has no bearing whatever on the classification of employes to be assigned.

In the letter of May 6, 1951, Exhibit E, the acting general chairman objects to helpers using a pneumatic tool to perform work. The same helpers use the same tool to strip side and end ladders, door fixtures, ice bunkers, etc., on the same car. The cars referred to are wood superstructure cars.

In the letter of May 13, 1951, Exhibit G, the acting general chairman says:

"Referring to your letter of May 8, 1951, dealing with the same subject matter at Pueblo Shop, which are similar in details, employes did not question any part of stripping cars on stripping tracks, but your letter refers to * * * "employes engaged in stripping bodies of wood superstructure cars for heavy repairs" * * *, the cars under construction at the St. Louis and Pueblo Shops are rebuilt cars, and there is no heavy repairs other than steel underframes, whatsoever, the superstructure of these cars are completely new steel frames, replacing wood posts and braces, all parts are new from steel underframe to steel roof, which is carmen's work under Rule 47, reading in part: "shall consist of building, maintaining, dismantling, painting." (Emphasis added.)

The grievances, therefore, seems to concern the location at which stripping is done. The acting general chairman's statements as to class of repairs made to cars is completely irrelevant and immaterial. The dispute is on the stripping operation, not the repairs made later.

The controlling agreement, effective December 1, 1944, provides, in classification of Work Rule No. 48, that "Employes engaged in stripping bodies of wood superstructure cars for heavy repairs * * * shall be classified as helpers." The cars involved in this dispute are wood superstructure cars and carmen helpers are and have been assigned to the stripping operation. The body of the car includes the roof and helpers have been stripping rigid riveted steel roofs and flexible steel roofs from wood superstructure cars since long before the current agreement was made.

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 Brotherhood Railway Carmen of America contends that under the provisions of its controlling agreement with the Transit Company, the latter is improperly assigning to carmen helpers the work of dismantling the steel roofs of refrigerator cars. It asks that the Transit Company be ordered to assign the work to carmen mechanics.

The work involved is being done by carmen helpers in connection with their stripping the bodies of wood superstructure refrigerator cars with steel roofs. The work consists of subdividing the steel roofs of some of these cars into sections by removing rivets therefrom. It is done for the convenience of handling, as the sections are later reassembled and the roofs used on these same cars when rebuilt.

The Brotherhood contends the work comes within the following classification contained in Rule 47 of the parties' controlling agreement, to wit:

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

Whereas the Transit Company contends the work comes within the following classification contained in Rule 48 of the parties' controlling agreement, to wit:

"Carmen helpers, . . . , employes engaged in stripping bodies of wood superstructure cars for heavy repairs, . . ."

We find the work of dividing the steel roofs of these cars into sections, to be later reassembled and used as the roofs of these same cars when rebuilt, to be a dismantling thereof and within the classification of work covered by Rule 47.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 9th day of July, 1952.