Award No. 1901
Docket No. 1760
2-PTRRA-CM-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 14, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Carmen)

PORT TERMINAL RAILROAD ASSOCIATION

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement, the carrier improperly contracted to the Sheffield Steel Corporation the maintenance work of repairing train freight cars that are placed in the Sheffield Steel Corporation for loading and unloading commodities of shipments.

2. That accordingly, the carrier be ordered to desist from contracting out the work.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains a car repair shop and repair tracks with a force of carmen repairmen at Houston, Texas. This force of carmen repair all cars that become damaged in the switching handling in the carrier's yards in the terminal. When the Sheffield Steel Corporation opened their facilities in production of steel, this industry became one of the shippers that the carrier perform the switching service of placing cars to be loaded and unloaded into this plant. After the cars are placed into the plant by the carrier, the Sheffield Steel Corporation unload and load the cars machines, such as drag lines and tractor cranes and the cars are moved from spot to spot in this plant with the same machines. Some of these cars are damaged by these machines while being moved and in loading and unloading.

When this industry first started damaging the cars in loading and unloading, the cars were bad ordered by the carrier's car inspectors. These cars were placed in the repair tracks and repairs were performed by the carrier's repair force. The cars being damaged became more numerous as the shipping increased by this industry, and these damaged cars had to be repaired before they could be delivered to the connecting railroad lines. When this repair work increased on the cars that were damaged in this industry, the carrier made a contract with the Sheffield Steel Corporation to repair all cars that are damaged or become bad ordered in their plant.

This case was handled with the carrier officers from the bottom to the top, designated to handle such matters, who all declined to adjust this dispute.

to the fact that there is no contract between the carrier and the Steel Corporation under which the Steel Corporation performs repairs to railroad cars for account of the carrier.

POSITION OF CARRIER: It is the carrier's position that there is nothing in its agreement with the mechanical crafts that permits the employes to reach beyond the carrier's shops and yards and claim car repairs performed by an industry in an endeavor to make whole cars damaged by the industry, nor does the agreement contain any rule that prohibits an industry from repairing on industry's trackage railroad cars that have sustained damage as the result of the plant's operation. The carrier contends that it has not contracted to the Steel Corporation any repair work and the Steel Corporation does not perform any repairs to cars except such repairs as are a result of damage occurring while on trackage of the industry. The Steel Corporation's inbound inspection report is rendered for the purpose of avoiding any repairs to defects that existed at the time the car was received at the plant. There is nothing new in the practice of industries repairing cars. Several of the larger concerns served by the carrier, particularly refineries, maintain personnel to repair their own railroad cars and cars in their service.

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 the dispute were given due notice of hearing thereon.

The service here shown is that of voluntary work by Sheffield Steel Corporation in repairing cars damaged while in its possession, on its privately owned and controlled tracks, and within the confines of its plant.

The work was not performed under agreement with or at the request of carrier and carrier made no payment therefor.

Except as may be specifically contracted for with the Sheffield Steel Corporation, carrier has no control or jurisdiction over the latter's private tracks or over cars thereon after spotting them and until picking them up again. We find here no contract with Sheffield Steel Corporation for operation or control of cars on its private tracks, and employes rights must be limited by those of carrier. Their agreement only covers work which carrier has to offer.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 21st day of March, 1955.

DISSENT OF LABOR MEMBERS TO AWARD NO. 1901

We are constrained to dissent from this Award for the following reasons:

The majority in finding that "The work was not performed under agreement with or at the request of carrier * * *" ignores the fact that correspondence between the carrier and the Sheffield Steel Corporation shows that they had an understanding concerning such repairs as those performed in the instant case, also the fact that previous to this understanding the carrier billed the Sheffield Steel Corporation for such repairs which were at that time performed by carrier's carmen employes under the terms of the controlling agreement between the carrier and its employes.

We submit that the findings of the majority further the carrier's evasion of its responsibility and obligation to have its carmen perform such repairs, said repairs being carmen's work within Carmen's Special Rule 50 of the controlling agreement.

Charles E. Goodlin
R. W. Blake
T. E. Losey
Edward W. Wiesner
George Wright