

Award No. 1933

Docket No. 1770

2-Pull-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. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (CARMEN)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement other than a Carman was improperly used to perform the work of removing and replacing car window screws to permit the opening of window of Car Pitch Pine on August 28, 1953.
2. That accordingly the Carrier be ordered to discontinue using other than Carmen to perform this work and compensate Carman Sorrell's in the amount of two (2) hours and forty (40) minutes at the time and one-half rate of pay for the aforesaid date..

EMPLOYEES' STATEMENT OF FACTS: On August 28, 1953, at 1:00 P. M., Carman Sorrels, hereinafter referred to as claimant, was notified that it would be necessary to hold a mechanic on overtime for the purpose of loading a stretcher patient through the window of Bedroom A in Car Pitch Pine at Atlanta, Georgia. Foreman Lamb contacted Assistant Superintendent Devlin concerning working a mechanic overtime and was instructed by Mr. Devlin not to have a mechanic work overtime to perform this work. The foreman notified the claimant, who according to the overtime board was entitled to the next overtime, that it would not be necessary for him to work overtime since they were arranging to have the porter handle the work involved. After the claimant received these instructions, he was notified to accompany the foreman into Car Pitch Pine at which time he was instructed to loosen all screws holding the window in place and to replace them loosely to be certain the window was in good working order. About 6:30 P. M., the porter performed the necessary work so the stretcher patient could be loaded on the train through the window, and the car could proceed on its way.

The claim was handled with carrier's officials designated to handle such matters who all declined to adjust the matter.

The agreement effective June 16, 1951, as subsequently amended, is controlling.

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.

Classification of work Rule 81 of the agreement provides that "Carmen's work shall consist of building, maintaining, dismantling . . . all passenger and freight cars. . . ."

Thereunder it is claimed that work involving the removing and replacing of certain window screws in Pullman cars to permit opening the window in order to load stretcher passengers constitutes dismantling and is carmen's work, and that carrier violated the rule by assigning a porter to it.

The Pullman car to which the rule is sought to be applied was constructed so that four windows were hinged and held in place by five square headed studs which had been made to fit the porter's berth key and the porter could unfasten the sash by loosening the studs with his key and lift it up to permit loading stretcher passengers, as was here done.

The question is whether such opening of the Pullman car window constituted "dismantling" under Rule 81.

As the word is defined, can we say that either the car or the window was stripped of equipment, or torn down, or taken to pieces, even temporarily?

Here the use and purpose for which the window was opened was one of the anticipated and intended uses of the window; the method adopted for opening the window was the method planned and provided for that intended use, and the skill required was not mechanical skill but simply that of using the berth key, which was the every day task of the porter, and raising the window on its hinges.

We think this was not dismantling, and the work not exclusively carmen's work. Award 1790 of this Division is in point.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of May, 1955.