

**Award No. 2506**

**Docket No. 2193**

**2-AT&SF-CM.'57**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

**The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.**

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**PARTIES TO DISPUTE:**

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

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY  
COMPANY (Coast Lines)**

**DISPUTE: CLAIM OF EMPLOYES:**

(1) That under the current agreement other than Carmen were improperly used to build cabinets and storage bins in the old Car Department tool room when converting it into a Car Department stockroom on various days during the month of June, 1952.

(2) That accordingly the Carrier be ordered to compensate Carman John Testinich in the amount of thirty (30) hours' pay at his applicable hourly rate making him whole for the above mentioned violation.

**EMPLOYEES' STATEMENT OF FACTS:** During the month of June, 1952, the carrier elected to convert the old toolroom in the car department into a stockroom for having at hand car parts stock and other material for carmen who make repairs to cars and other shop work within their classification. The old toolroom building located in the center of the car department facility was repaired by bridge and building employees, and in addition to making repairs to the building, these bridge and building employees were used to build cabinets and storage bins which were then toenailed to the walls and floor of the toolroom.

The time spent by these bridge and building employees building the cabinets and storage bins was sixty (60) hours, which is supported by statements of Carmen Thomas Chalamedos, Gilbert A. Baptista and Albert J. Varallo, submitted herewith and identified as Exhibits A, B, and C; however since a monetary claim was made for only thirty (30) hours on the property, this is the claim before the Board as claims cannot be enlarged when coming before the Division.

Carman John Testinich, hereinafter referred to as the claimant, is regularly employed at Richmond, California, with first shift hours of 7:30 A. M. to 12:00 Noon; 12:30 P. M. to 4:00 P. M., Monday through Friday,

which Item 1 of Appendix "B" is not and could not in anywise be even remotely applicable in a case of the kind in question.

This claim is one, regardless of the angle from which viewed, which merits nothing other than a denying award and we trust your Honorable Board will so decide.

**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 employees 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.

Maintenance of Way forces were used to make cabinets and storage bins for use in and attachment to an existing shop structure. Rule 102 is the Carman's Classification of Work Rule. It includes "all other carpenter work in shops and yards, except work generally recognized as Bridge and Building Department work." The Railway Board of Adjustment No. 2 in Dockets 1088, 2199 and 2201 interpreted that language to mean all carpenter work except that involved in the erection and repair of buildings.

When not done as an integral part of the construction or remodeling of a building, making cabinets and bins, for use in or attachment to an existing structure, is not building construction but fixture making. Thus it is clearly within Rule 102.

The carrier contends that this is a jurisdictional dispute with the Maintenance of Way Organization and that notice to it is necessary to decision. It will be noted that while the carrier assigned employees of that organization to perform the work involved there is no evidence that such organization claims the right to perform such work. Neither is there any evidence that such organization has or does challenge the long established interpretation of the Railway Board of Adjustment No. 2. Under such circumstances the contention that this claim is a jurisdictional dispute cannot be sustained.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1957.