

Award No. 2507
Docket No. 2251
2-StLSW-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.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 45 RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—(Carmen)**

ST. LOUIS-SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement other than a Carman was improperly used on line of road to inspect and make repairs to journal box on WAB Car No. 47659 on August 31, 1952.

2. That accordingly, the Carrier be ordered to compensate additionally Carman H. W. Wright in the amount of eight (8) hour's pay at the applicable straight time rate for August 31, 1952.

EMPLOYEES' STATEMENT OF FACTS: Carman H. W. Wright, hereinafter referred to as the claimant was regularly assigned by bulletin to work on the repair track at Texarkana, Texas, with bulletined and assigned hours, 7:00 A. M. to 3:00 P. M., work week Monday through Friday, with Saturday and Sunday rest days.

In addition to the claimant, who was low man on the carmen's overtime board on date in question, there were at least fifteen (15) other freight carmen employed by carrier at Texarkana, Texas on August 31, 1952, working in three shifts, 7:00 A. M. to 3:00 P. M.; 3:00 P. M. to 11:00 P. M.; and 11:00 P. M. to 7:00 A. M.

On Sunday, August 31, 1952, Train 343, engine 354 southbound, departed from Texarkana at 4:45 P. M., and set out WAB Car No. 47659 at Naples, Texas, at 6:25 P. M., account of hot box.

Naples is located on the main line between Texarkana and Mt. Pleasant, 42 miles from Texarkana, and 18 miles from Mt. Pleasant. At the time of our claim there were no mechanics of any craft employed at either Mr. Pleasant or Naples, and neither of these points are inspection and/or repair points. In addition to Mechanical Foreman Smith there was one coach cleaner employed at Mt. Pleasant, and a machinist helper and a laborer on each of the three shifts, also a night mechanical foreman. There are no mechanical department employees working at Naples.

ment without further delay. The highly competitive nature of the merchandise contained in the car set out at Naples required the most expeditious conditioning possible to insure movement on the next following train. Under such conditions it was a normal and proper action to have the working foreman at Mt. Pleasant perform the work.

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In conclusion the carrier respectfully submits that the facts cited above show that the claim is not supported by the rules and should be denied.

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 this dispute were given due notice of hearing thereon.

On the date in question a mechanical foreman at Mt. Pleasant was used to apply new brass and repack a journal box on a car set out at Naples where no mechanical forces are employed.

Under this agreement such work is not within the Carmen's classification of work rule but is within the Helpers' work rule. Under such circumstances we have consistently held, starting with Award No. 1001, that performance of such work on the road by other than carmen is not a violation of rules similar to Rules 33-1 and 94 in this agreement.

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 June, 1957.

DISSENT OF LABOR MEMBERS TO AWARD NO. 2507

The work performed by the foreman consisted of inspecting and making repairs to the journal box on a freight train car. This is the work of carmen under Rule 86-1 of the current agreement.

The majority's holding that under the agreement this work is within the helpers' work rule implies unfamiliarity with Rule 88 of the agreement which prescribes Carman Helpers as "Employees regularly assigned to assist carmen." A carman helper may not be sent on the road or away from the shop unless he is to assist a carman. There is no equivocation in Rule 94 which states "When necessary to repair or inspect cars on the road or away from the shops, carman (with helpers when necessary) will be sent out to perform such work."

The performance of the instant work by other than carmen is not only a violation of Rule 94 but also of Rule 33-1. The exception in Rule 33-1 comprehends that a working foreman may perform mechanic's work at a point where no mechanic is employed but it does not contemplate that such working foreman may be used to the prejudice of the rights of carmen, as was done in the instant case.

The majority's finding that it has been consistently held, starting with Award No. 1001, that the performance of "such work on the road by other than carmen is not a violation of rules similar to Rules 33-1 and 94 in this agreement," is disproved by the fact that it has been just as consistently held that it is a violation. However, the number of precedents on either side is not of primary importance; it is the agreement which governs in each instance, and in this instance the carrier violated the governing agreement.

R. W. Blake
Charles E. Goodlin
T. E. Losey
Edward W. Wiesner
James B. Zink