

Award No. 2669
Docket No. 2514
2-CGW-FT-'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:

CHICAGO GREAT WESTERN RAILWAY COMPANY
SYSTEM FEDERATION NO. 73, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Federated Trades)

DISPUTE: CLAIM OF CARRIER:

(6) Claim that the Carrier has violated Rule 35 of the Shop Crafts Agreement effective February 1, 1924 (Reprinted June 1, 1954) with respect to ventilation in the Diesel Shop at Oelwein.

CARRIER'S STATEMENT OF FACTS: On April 17, 1952, General Chairman R. A. Henning of the International Association of Machinists addressed the following letter to carrier's superintendent motive power & equipment:

"DISTRICT LODGE NO. 32
INTERNATIONAL ASSOCIATION OF MACHINISTS

2395 University Avenue
St. Paul 4, Minnesota

April 17, 1952

SUBJECT: Rule #47, Condition of
Shops, C.G.W. Ry.
VENTILATION—OELWEIN, IOWA

Mr. Theodore Olson,
Supt. Motive Power & Equipment,
Chicago Great Western Ry.,
Oelwein, Iowa.

Dear Sir:

I am writing you in connection with the ventilation conditions in the Diesel Shop at Oelwein, Iowa.

Claim was included in Strike Docket and Ballot dated January 30, 1956, which was actually submitted to the employees April 5, 1956. Parties were unable to compose their differences in conference during period July 9 to 12, inclusive, 1956, and carrier was notified on July 13, 1956, that the labor organizations parties to this claim had "set a strike date for seven A. M. Central Standard Time, July 18, 1956", at which time employees represented by the organizations would cease work for the carrier.

POSITION OF CARRIER: Basis for the employees' contention that the carrier has violated Rule 35 of the Shop Crafts' Agreement stems from the fact that during the month of December 1951, it was necessary to repair seven of the twelve ventilating fans in the Oelwein diesel shop. These fans, after being re-wound, were made serviceable the first week of January 1952. Since that time there has been no indication of failure of any of the ventilating fans, it being the purpose of the carrier to keep the ventilating system in good working order.

In view of the fact the carrier is and has been maintaining the ventilating fans in good working order it is plain that the employees' claim that the carrier has violated Rule 35 of the Shop Crafts' Agreement is not supported by the record in this case. Under the circumstance, claim should be declined.

EMPLOYEES' STATEMENT OF FACTS: The carrier described cases are not ready for consideration and action by your Board. They are a group of unsettled disputes involving this carrier and System Federation No. 73, Railway Employees' Department, AFL-CIO, which have not been handled to conclusion on the property and the right of System Federation No. 73, Railway Employees' Department, AFL-CIO to endeavor to settle them by further negotiations or by means other than National Railroad Adjustment Board pursuant to Article V, Section 5, of the agreement of August 21, 1954, has been challenged by the carrier in the courts.

It is, therefore, our position that until the courts have determined this matter and until these disputes have been handled as provided in Section 3, First (i) of the Railway Labor Act, as Amended, they are not properly referable to your Board.

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.

Rule 35 is as follows:

"(a) Good drinking water and ice will be furnished. Sanitary drinking fountains will be provided where necessary. Pits and floors, lockers, toilets and wash rooms will be kept in good repair and in a clean, dry, and sanitary condition.

((b) Shops, locker rooms, and wash rooms will be lighted and heated in the best manner possible consistent with the source of heat and light available at the point in question."

That rule does not mention ventilation or the health and safety of employees, so whatever else may be said about the ventilation provided by the carrier at the Oelwein Diesel shop, it cannot be a violation of that rule.

AWARD

Claim of violation of Rule 35 denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1957.