

Award No. 2671

Docket No. 2516

2-CGW-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:

**CHICAGO GREAT WESTERN RAILWAY COMPANY
SYSTEM FEDERATION NO. 73, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Carmen)**

DISPUTE: CLAIM OF CARRIER:

Claim that the Carrier has violated Rule 35 of the Shop Crafts Agreement effective February 1, 1924 (Reprinted June 1, 1954) by failing to provide proper shelter for carmen locker room and decent toilet and washing facilities at the repair track east of Laramie Avenue, Chicago, Illinois.

CARRIER'S STATEMENT OF FACTS: Rule 35 of agreement (hereinafter referred to as Shop Crafts' Agreement) effective February 1, 1924 (Reprinted June 1, 1954) between the Chicago Great Western Railway Company and employees represented by organizations composing System Federation No. 73, reads 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."

On February 24, 1956, General Chairman George W. Herman of the Brotherhood Railway Carmen of America addressed the following letter to the carrier:

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 employes represented by the organizations would cease work for the carrier.

POSITION OF CARRIER: As shown by the record, the carrier has provided adequate locker space for carmen at Chicago Transfer and is endeavoring to improve other facilities pending permanent improvements which are contingent upon the construction of the new Congress Street highway.

In view of the record in this case, it is the carrier's position that Rule 35 has not been violated and we respectfully request the Board to so hold and deny claim.

EMPLOYES' 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.

The record does not show that any such claim of agreement violation was progressed on the property or subsisted at the time of carrier's submission to this Division.

It does show that "the carmen requested better locker room, wash room and toilet facilities at Chicago." It shows that carrier recognized that those facilities were inadequate and stated that the provision of new facilities was delayed by construction of the Congress Street Highway and that, if any appreciable amount was expended for patchwork on existing facilities, its ability to carry out its rehabilitation program might be impaired. Finally it shows that the general chairman wrote that "we realize that the construction of the Congress Street Highway presents a problem in getting the building program at Chicago Transfer under way, but we do appreciate knowing that in the near future this matter will be taken care of."

That being the status of the matter, we find carrier's submission to this Division was premature.

AWARD

Claim dismissed.

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.