

Award No. 2739

Docket No. 2363

2-MP-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Harry Abrahams when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT AFL-CIO (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That orders issued by Assistant Superintendent and General Car Foreman at Kansas City, Missouri forbidding Car Inspectors in train yards the use of blue signals is a violation of the controlling agreement, Rule 124.
2. That the Missouri Pacific Railroad, hereinafter referred to as the Carrier, be ordered to rescind such orders and issue instructions to display blue signals as provided for in Rule 124.

EMPLOYEES' STATEMENT OF FACTS: On Saturday, March 19, 1955, about 11:00 A.M., Car Inspector V. C. Elliott was accosted by Mr. Pierce, general car foreman, and Mr. Needham, assistant superintendent, while he (Elliott) was about to place a blue flag at the head end of the Kansas City Southern-Milwaukee Transfer in order to protect himself and Inspector Floyd McGaugh against the possible loss of life or limb, and was told by the two aforementioned officials of the carrier **not to place the blue flag in position**. Car Inspector Elliott protested, claiming that not to do so was to leave himself and Inspector McGaugh without protection. However, the above named officials insisted that the blue flags **not be put in place** and the two aforementioned inspectors worked the cut of cars without proper protection. The employes herewith submit as Exhibit A Car Inspector V. C. Elliott's statement to substantiate the above facts.

On March 20, Car Inspector J. J. Hullebusch started to work the Kansas City Southern-Milwaukee Transfer by first placing a blue flag on the head end of the transfer and Inspector Harold Hergerhofer started to work the same transfer by placing a blue flag on the rear end. This cut of cars was worked with blue flag protection, however, Car Inspector Hullebusch was met by Assistant Superintendent Needham, Trainmaster Jackson and Car

the committee on March 29. The statement or advice given by the assistant superintendent and the general car foreman was verbal, therefore in a meeting with the same parties on August 29, when these same two men withdrew, verbally, the instructions or understandings discussed on March 29, 1955, the commitment to the general chairman and local chairman by the assistant chief personnel officer and the superintendent was carried out in full.

With respect to the second part of the employees' statement of claim to the effect that this carrier be ordered to issue instructions to display blue signals as provided for in Rule 124: It has been definitely shown in this submission that this carrier does not, under its instructions, permit a violation of **Rule 124, which deals with the matter of inspection of cars and trains and work on cars.**

This request involved in this case should be denied for the very simple reason that the occasion giving rise to **the complaint involves the matter of men coupling air hose and Rule 124 is not applicable to coupling air hose.**

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.

On March 8, 1957, the following letter signed by L. A. Gregory, Assistant Vice President-Operation, Missouri Pacific Railroad, was directed to Messrs. C. F. Dougherty, R. Johnson and E. C. Sheffield:

"The Carmen's Organization has made serious complaint with respect to the method of affording protection to carmen while making inspections, working on cars and in making and breaking air, steam, signal hose and other connections between cars. It has been developed that at some points direct instructions have been given to carmen that they must not use blue signals for protection while making inspection or working on cars.

It has further been developed that proper protection has not been afforded to carmen when coupling air in freight yards.

The schedule agreements with the Carmen's Organization all carry a rule reading:

'Trains or cars while being inspected or worked on by train yard men will be protected by blue flag by day and blue light by night, which will not be removed except by men who place same.'

Certain of the instructions issued to carmen that they must not display blue signals while making inspection or working on cars have been in direct violation of the schedule rule quoted above, and, therefore, such instructions must be withdrawn and no similar instructions of this nature issued in the future.

Because of certain apparent misunderstandings on the part of some supervisors and on the part of some of the carmen with respect to protection for carmen while coupling air, we find it necessary that instructions be issued to yard service employes, which includes carmen, that blue signals will be used by carmen when coupling air between cars, inspecting cars or working on cars in freight yards.

Please, therefore, have all Superintendents issue the following General Notice and post it on bulletin boards, not later than March 15, 1957, to all employes working in yards:

'Any instructions that have heretofore been issued to or received by carmen to discontinue the use of blue signals while inspecting or working on cars are hereby cancelled.

'In the future blue signals will be displayed by carmen as their method of protection when coupling air between cars, inspecting cars or working on cars in freight yards.

'Blue signal protection is not required when carmen make or break air hose couplings between caboose and train, engine and train, when doubleover is made, when bad order is set out, when train is cut for purpose of making other setouts or additions to the train or cuts for crossings.

'Blue signal protection is not required when carmen make what is termed running inspection of through freight and passenger trains and carmen are not required to place themselves in position where movement of the train or cars would cause a hazard or injury.

'In addition to the foregoing, all employes are reminded of the rules requiring that each employe **must** assure himself that proper protection is afforded against the movement of engines or cars before placing himself in a position where such movement may cause hazard or personal injury.'

It is desired that Superintendents give close scrutiny to the methods of protection now in effect at all points where cars are taken from or added to passenger trains, and where passenger cars are switched, to insure that carmen are being properly protected when making or breaking connections between cars.

Please acknowledge receipt and furnish a copy of the General Notices issued by the Superintendents.

/s/ L. A. Gregory
Assistant Vice President-Operation
Missouri Pacific Railroad."

The employes stated that if the above had been lived up to by the subordinate supervisors, this case would have been withdrawn from this Board's further consideration.

In accordance with the said letter of L. A. Gregory, we find that the claim of the employes should 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 6th day of February, 1958.