Award No. 3213
Docket No. 3042
2-AT&SF-EW-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.—C. I. O. (Electrical Workers)

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the provisions of the current agreement, the Carrier improperly assigned other than Electrical Workers to perform the work of Electrical Workers (axle lighting and air-conditioning inspectors).

2. That the Carrier be ordered to additionally compensate Axle Lighting and Air-Conditioning Inspectors A. D. Rice and R. W. Schuetz each the amount of eight (8) hours' pay at their regular rate of pay for violations on the following dates: July 28, August 3, 9, 10, 11, 13, 14, 15, 16, 17, 20, 21, 23, 24, 28, 29, 30 and 31; November 9, 18 and 20; December 5 and 14, 1956; and July 16, 1957.

EMPLOYES' STATEMENT OF FACTS: Electrical Workers A. D. Rice and R. W. Schuetz, hereinafter referred to as the claimants, are regularly assigned axle lighting and air conditioning inspectors, employed by The Atchison, Topeka and Santa Fe Railway System, hereinafter referred to as the carrier. The claimants are assigned to work in and out of La Junta, Colorado, their regularly assigned headquarters.

Included in the duties assigned to axle lighting and air-conditioning inspectors, is the work of making inspection and repairs to electrical equipment on passenger train cars en-route while at the headquarters point of such inspectors and to ride the trains when the lighting and air-conditioning equipment is not functioning properly or trouble is anticipated.

On or about July 15, 1956, the carrier assigned several supervisory employes, who have the title of Assistant Supervisor Diesel Equipment, commonly

It is obvious from the above, and the correspondence between the parties involved in this dispute, that employes' claim is without support of facts. They have not, even upon request from the carrier produced evidence to support their position. The responsibility to produce evidence that a violation has occurred rests upon the claimants; this the employes have not done.

The carrier does not deny the fact that the supervisors in question here were assigned to ride Trains 21 and 22 for the purpose of observing the equipment in the hi-level cars. Supervisors have been assigned to ride trains for many years to observe conditions which tend to cause discomfort to its patrons. In Second Division Award 1771 this Board stated—

> "Carrier urges that a foreman may properly inspect defective parts and make the decision as to what shall be done to remedy the situation. We agree with this statement and to that extent the foreman was acting within the terms of the agreement. * * *"

Rule 29(a) of the Shop Crafts' Agreement further supports carrier's contention that there has not been a violation of the agreement in assigning supervisors to ride Trains 21 and 22. The pertinent part of that rule which applies to this case reads as follows:

> "None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft. **This rule does not prohibit foremen in the exercise of their duties, * * *, to perform work.**" (Emphasis added.)

In conclusion, carrier asserts that the supervisors were assigned to ride Trains 21 and 22 solely for the purpose of observing defective equipment and that they did not perform any work of the electricians' craft on the equipment in the hi-level cars.

Carrier also asserts that the employes have defaulted in their handling of this dispute on the property for the reason that they have not presented evidence to support their claim.

Carrier respectfully requests this Board to deny the employes' claim in its entirety.

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.

Parties to said dispute were given due notice of hearing thereon.

This is a claim that supervisory employes on named dates did the work of claimant electrical workers who are monthly rated. The A. S. D. E. men were on the trains in question, but the carrier insists they were present to observe the functioning of the high level cars. The employes who have the duty of inspecting, under their classification of work rule, point to particular days when repairs were started on certain cars and while not yet completed the

cars were sent out with an A. S. D. E. man accompanying them. Claimants urge that this was in order to finish the repair work started by the claimant craft.

The details as to what work was done by the A. S. D. E. men is understandably vague. As to the line between what is observing and what is inspecting, we hestitate to lay down a sharp distinction; but in Second Division Award No. 2146 between the present parties, we note that the Division found that the system-wide traveling inspector "made visual inspection of the electrical and air conditioning equipment on these trains making temporary repairs thereto en route." The present case is almost completely parallel to that one.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May 1959.