

Award No. 3481

Docket No. 3289

2-AmRef-CM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer, when award was rendered.

PARTIES TO DISPUTE:

**BROTHERHOOD RAILWAY CARMEN OF AMERICA
RAILWAY EMPLOYES' DEPT., A.F.of L.—C.I.O.**

AMERICAN REFRIGERATOR TRANSIT COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That the Carrier violated the controlling agreement of December 1, 1944, particularly Rules 24 and 47 thereof, by assigning the work of building floor racks for refrigerator cars to others than carmen mechanics.

2—That accordingly the Carrier be ordered to:

- a) Assign carmen mechanics to perform the aforesaid work, and
- b) Compensate Carmen equally divided among them to to be named later, in the amount of eight (8) hours per day at carmen's rate of pay, for each day that other than Carmen Mechanics perform the work since November 14, 1957.

EMPLOYES' STATEMENT OF FACTS: At Pueblo, Colorado the American Refrigerator Transit Company, hereinafter referred to as the carrier, maintains a shop where they build, repair and maintain refrigerator cars, employ carmen, carmen apprentices and carmen helpers.

On November 14, 1957, at 8:00 A. M. General Foreman B. M. Smith assigned Carman Helper C. B. Mize to help Carman Jake Papish build floor rack for refrigerator cars. Mr. Mize's duties were to place the floor rack sills, consisting of six different lengths, from 49½ to 84 inches, and rights and lefts, in their proper position on the floor rack jig, and then place the slats, of which there are eight different kind to a set of racks, different widths, shapes and rights and lefts on the jig in their proper position. After the helper assembled the complete rack, the carman mechanic bored the holes, then the helper inserts 2½ inch No. 14 screws in the holes, the mechanic using a power driven screw driver fastens the slats to the sills.

This dispute has been handled with all officers of the carrier designated to handle such disputes including the highest designated officers of the carrier,

partment), operators of bolt threaders, nut tappers, drill presses and punch and shear operators (cutting only bar stock and scrap), holding on rivets, rivet heaters (except when done by apprentices), striking chisel bars, side sets and backing out punches, using backing hammers and sledges in assisting carmen in straightening metal parts of cars, assisting carmen in erecting scaffolds, assisting carmen in jacking up cars, car oiling, packing, rebrassing, delivering material, overhead crane chain hook-up men, and all other work generally recognized as carmen's helpers work shall be classed as helpers."

Each floor rack section is built by a carman mechanic and the work performed by a carman helper under the immediate direction of the mechanic is to place four 2" x 3 $\frac{3}{4}$ " x 8' floor rack stringers and seventeen 1" x 4" x 4' slats from adjacent material piles on the "jig." After screw holes are drilled by the mechanic, the helper places screws in the holes which are then driven by the mechanic. The helper assists the mechanic in lifting the assembly from the jig.

The work performed by the carman helper does not require the use of tools, or does not require experience, training or skill, such as is required for many of the occupations in Rule 48 to which helpers may be assigned. Handling material for a mechanic is generally recognized as work to which helpers may be assigned.

The employees contend that as helpers have not always been assigned to this particular work, it must be done by mechanics. However, it is clearly work which helpers may be required to perform, and the fact that the carrier has not always used its right to assign such employees, does not destroy those rights. The classification of work rule for carmen helpers is part of the controlling agreement and assignment of work in accordance with that rule is not a violation of the agreement.

The carrier contends that the assignment of a helper to do the strictly manual labor of handling material from stock pile to jig for a mechanic is not a violation of the agreement, and respectfully requests your Honorable Board to so find.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Contention is made that the carrier has been violating the agreement by assigning a carman helper to perform the work of a carman in connection with the construction of floor racks for refrigerator cars. The operation out of which this dispute arises may be described as follows: The helper takes pre-cut floor rack stringers and slats from material piles adjacent to the jig and places them on the jig in the proper locations. The carrier states without refutation that the stringers and slats cannot be placed in the wrong location or they will not fit. The carman then saws two slats for the purpose of fitting them at the hinge. He next proceeds to bore 1,280 holes. The helper places screws in the holes as they are bored. The carman then drives the screws and applies hinges,

gate straps, plates and bolts. The helper assists the carman in lifting the completed rack from the jig. It is the work of placing or assembling the stringers and slats in the jig and the inserting of screws in holes which the petitioner contends belongs to carmen but not to helpers. The organization asserts that from 1939, when the present classification of work rules 47 (carmen) and 48 (carmen helpers) were first negotiated, until November 1957 none but carmen were assigned to do the work in question, and that this is recognition that carmen have exclusive jurisdiction over said work. The carrier does not agree that carmen have done this work exclusively but concedes it has been usual practice for a carman to work alone in the building of floor racks. Nevertheless, management urges that the activity complained of is permissible use of a carman helper.

Rule 48 defines carmen helpers, in pertinent part, as "employees regularly assigned to help carmen and apprentices." The evidence discloses that the carrier has been utilizing a carman helper to help a carman in the subject instance. The fact that prior to November 1957 the carrier may not have assigned a helper to assist a carman in constructing floor racks does not mean that management has become foreclosed from making such an assignment. A denial award is required.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June 1960.