

Award No. 3509

Docket No. 3236

2-SP-PL-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:

SYSTEM FEDERATION NO. 114 RAILWAY EMPLOYEES'
DEPARTMENT, A.F. of L.—C.I.O. (Carmen)

SOUTHERN PACIFIC COMPANY (Pacific Lines)

DISPUTE: CLAIM OF EMPLOYEES: 1. That the current agreement was violated when:

(a) Carmen Helpers' positions were abolished and the work of said positions was transferred to and performed by Carmen.

(b) Carman Helpers were and continue to be furloughed because of said transfer of work.

2. That accordingly the Carrier be ordered to restore the following Carmen Helpers to service and compensate them for all time lost since July 18, 1957:

Billey Depper	F. B. Franco	Jose V. Gomez	G. Maytorona
Arturo Estrella	Robert V. Lopez	Marcus Nunez	E. S. Dominguez
Joseph Cardiello	E. H. Basurto	Francisco Del Pino	Nicholas Garcia
M. M. Campista	Jesus Valenzuela	Jose T. Corral	Gus Aragon
Juan Granillo	G. P. Mesa	Louis Bueno	Ray Polanco
A. A. Figureroa	Pete Garcia	Juan Herran	Reyes Vasquez
	Ricardo T. Reyes	J. M. Hernandez	

EMPLOYEES' STATEMENT OF FACT: On April 11, 1957, carrier posted its Bulletin No. 295, first paragraphical excerpt reading:

"CAR OILERS"

"Effective with the termination of their respective shifts of April 15, 1957, all Car Oilers position in North and P FE Yards, and all Relief Positions will be abolished. * * * Car Oilers and Relief Oilers will be assigned to the Furloughed List * * *."

On April 15, 1957, all car oilers and relief car oiler positions were abolished, in accordance with above quoted notice and instructions issued to the effect that oiling of trains in Tucson, both passenger and freight, was to be discontinued with the exception of cars originating at this point and this particular work was to be performed by car inspectors.

service, and carrier is subject to no limitations in the matter of dispensing with positions for which there is insufficient work to justify their existence.

CONCLUSION

Carrier asserts the instant claim is entirely lacking in agreement or other support and requests that it be denied.

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 April 16, 1957 the Carrier discontinued the practice of free oiling of journal boxes at Tucson, Arizona, with the result that such service was reduced to oiling only those cars in trains originating at that point and "captive" cars on which journal boxes were found by actual inspection to contain less than one inch of oil. At the same time the Carrier abolished the carmen helper positions that had been occupied by the claimant oilers and since that time all oiling work at Tucson has been performed by car inspectors (carmen). The Carrier contends that insufficient oiling work remains to justify the assignment of even one oiler to each trick. The Organization denies that this is so and offers employe statements in support of this denial.

If it be assumed for the purposes of this case that there is still sufficient oiling work at Tucson to justify the retention of one or more oilers, the question arises as to whether the assignment of such work to carmen and the resulting abolishment of carman helper positions resulted in an agreement violation. We do not think that it did. The subject work is part of the overall activity of inspecting and maintaining cars, which activity is included in the carmen's classification of work rule of the agreement (Rule 104). The fact that carman helpers may be used to perform oiling does not act as a bar to the assignment of this work to carmen. Rule 106 defines carmen helpers in terms of the types of work to which they are assigned but it does not establish exclusive jurisdiction over work in relation to that which carmen may be used to perform.

No agreement violation appears in this case. A denial award is indicated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1960.

DISSENT OF LABOR MEMBERS TO AWARD 3509

The findings of the majority not only uphold the carrier's violation of the contractual rights of the claimant carmen helpers under the agreement but also uphold the carrier's deliberate thwarting of Sec. 2 Seventh of the Railway Labor Act which prescribes that "No carrier, its officers or agents, shall change the rates of pay, rules or working conditions of its employes, as a class as embodied in agreements except in the manner prescribed in such agreements or in Section 6 of this Act." Classification of Work Rule 106 was mutually agreed to by the parties at the time the agreement was negotiated and according to Rule 121 thereof the agreement "shall remain in effect until changed under the provisions of the Railway Labor Act."

/s/ Edward W. Wiesner
Edward W. Wiesner

/s/ R. W. Blake
R. W. Blake

/s/ Charles E. Goodlin
Charles E. Goodlin

/s/ T. E. Losey
T. E. Losey

/s/ James B. Zink
James B. Zink