Award No. 3758
Docket No. 3493
2-TRRA-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 25, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L.-C. I. O. (Carmen)

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

DISPUTE: CLAIM OF EMPLOYES: 1. That the Terminal Railroad Association of St. Louis, Missouri violated the provisions of the controlling agreement, particularly Rule 95 — "Carmen's Classification of Work" — dated April 1, 1945, amended September 1, 1950, which reads in part: "* * * and all other work generally recognized as carmen's work.", when they assigned other than carmen to perform carmen's work at Valley Junction, Illinois between the hours of 11:00 P. M. to 7:00 A. M. from April 1, 1958.

2. That accordingly, the Terminal Railroad Association be ordered to compensate Cecil Stevens for eight (8) hours pay per day at the straight time rate for April 2, 1958, and all days subsequent thereto until the violation is corrected.

EMPLOYES' STATEMENT OF FACTS: On or about April 1, 1958, the Terminal Railroad Association of St. Louis, hereinafter referred to as the carrier, furloughed upgraded Carman Helper Cecil Stevens, hereinafter referred to as the claimant in a reduction of forces in the Madison, Ill. district caused by the abolishment of the 3rd shift 11:00 P. M. to 7:00 A. M. air hose couple up job at Valley Junction, Ill.

The claimant at the time of furlough was regularly assigned as a carman air hose couple up man in the carrier's Madison West Bound Yard at Madison, Ill.

Madison, Ill. and Valley Junction, Ill. are in the same seniority district and the employes employed at these two points may exercise seniority at either location.

There are two inbound and two outbound trains worked at Valley Junction on the third shift and when the carrier abolished the 3rd shift air hose couple up job at Valley Junction they did not discontinue the work but assigned the work of coupling air hose to switchmen.

The work of coupling air hose has been recognized as carman's work on this property for over 30 years dating back as far as 1951 which reveals beyond question that the carrier has recognized the work as carman's work.

on this same property, affords adequate reason for a denial award. See also Awards 32, 1333, 1626, 1627."

As further evidence that the coupling of air hose is commonly recognized as work that is not exclusively carman's, attention is called to the decision and award of George Cheney, Industrial Relations Consultant of San Diego, California, appointed as referee in the dispute covering "Coupling and Uncoupling Air, Signal and Steam Hose" as provided for in the Brotherhood of Railroad Trainmen Referee Agreement of May 25, 1951. The following excerpt is taken from Referee Cheney's discussion of the "Evolution of Proscriptive Rules Affect ing the Coupling Function and Provisions for Arbitraries:"

> "The evolutionary circumstances just detailed, are persuasive that from the inauguration of the air brake systems to modern times, trainmen, yardmen, and carmen have all performed the Coupling Function. From the persepctive of interpretations placed upon the restrictive rules themselves by the parties, **such rules do not establish hard and fast exclusive craft boundaries as between the Brotherhood of Railroad Trainmen, and the Brotherhood of Railway Carmen, allocating the performance of the Coupling Function solely to carmen.** On the contrary, present rules portray examples **of the overlapping of craft lines, and illustrations of tasks which are common to the crafts of both the Brotherhood of Railway Carmen, and the Brotherhood of Railroad Trainmen.** It should also be observed that this conclusion is not original with the present Referee. The Federal District Court, in the case of Shipley vs. Pittsburgh and L.E.R. Company, 83 F. Supp. 722, previously reached an identical conclusion, from which significantly no appeal was taken."

The Cheney award was made effective on this property on September 1, 1951.

See also Award 1823 involving similar claims on the Southern Pacific Lines in Texas and Louisiana in which consideration was given to the findings and award of Referee Cheney.

In consideration of the practice on the property, the lack of any support in agreement rules, and the principle well established by awards of this Division and the findings and award of Referee Cheney, the carrier submits that the claim of the organization is entirely without basis and should 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.

Parties to said dispute waived right of appearance at hearing thereon.

Admittedly the coupling of air hoses is common to both carmen and trainmen, but the Employes contend that on this property it is done exclusively by carmen except on line of road. The Carrier contends that it has been done by both crafts all over the terminal property, and shows correspondence in which such performance by trainmen, not on line of road, was protested in 1951 by the Employes and the protest was rejected without further claim.

In general, in the absence of specific agreement the coupling and uncoupling of air hose has been held the exclusive work of carmen only when performed as an incidnt to their regular duties of inspection and repair. Awards 32, 457, 1333, 1370, 1372, 1554, 1626, 1627, 1636, 1838, 2628, 3091, 3335, 3339 and 3340.

Award 2628, supra, sustained the carmen's claim because of a rule which expressly provided that "other Carmen's work shall consist of * * * air hose coupling in train yards and terminals".

Here there is no such rule and the record does not show any established practice of exclusive right under such conditions. On the contrary it indicates that switch crews have normally coupled air hose on this property as an incident of their work without any agreed or established exclusion of yards and terminals, and have received an arbitrary for it for a number of years. The Carrier has followed the practice of employing carmen to do the work when volume justifies, but neither rule nor practice requires it in absence of need, and the abolishment of an unnecessary position is not an unfair discrimination between crafts.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of June 1961.

DISSENT OF LABOR MEMBERS TO AWARD NO. 3758

The majority is not correct in finding that there is no rule here expressly providing that air hose coupling is carmen's work. Rule 110, providing that the agreed minimum hourly rate of pay for carmen air hose couple up men, is proof that coupling air hose is carmen's work. That it was so recognized is shown by Employes' Exhibits A through A-24.

The present position was not abolished because it was unnecessary; the work of the position was transferred from the carmen's craft to employes within another craft. This was a violation of the controlling agreement and the claim of the employes should have been sustained.

Edward W. Wiesner

R. W. Blake

Charles E. Goodlin

T. E. Losey

James B. Zink