

Award No. 3782
Docket No. 3549
2-P&LE-TWU-'61

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

**RAILROAD DIVISION, TRANSPORT WORKERS UNION OF
AMERICA, A. F. of L.-C. I. O.**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY AND
THE LAKE ERIE & EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: At Struthers, Ohio the Carrier is using the jeep driver, who is a helper to blue flag and lock the tracks. The Organization feels that this work does not belong to helpers and would like to have this practice stopped at once.

The helper doing this work is a violation of Rule 36, paragraph (a).

This same type of case was handled in McKees Rocks, Pa. and was known as Case M-163.

This is the answer you gave to this case: "Have investigated this case and I concur that we have been violating the agreement by using helpers to see that tracks are properly blue-flagged as outlined in paragraph 1". You further state in your answer and I quote it, "This practice will be stopped immediately, that is, the helpers will discontinue performing this work and it will be assigned to the proper person."

EMPLOYES' STATEMENT OF FACTS: This case arose at Struthers, Ohio and is known as Case Y-108.

The carrier is making the helper blue flag and lock the tracks at this point.

The organization does have a rule as to who shall do this work and that rule is Rule 36, paragraph (a).

The same type of case was handled at McKees Rocks, Pa. and the master mechanic-car admitted that when a helper was required to blue flag the track and lock it that it was a violation of the agreement.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective May 1, 1958 and revised March 1, 1956 with the Pittsburgh & Lake Erie Railroad Company and the Lake Erie

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.

The organization complains that carrier is using jeep drivers, who are classed as carmen helpers, to place blue flags and lock switches when protecting cars under repair or inspection. They assert that such service belongs to foremen, car inspectors and car repairmen under Rule 36, paragraph (a) hence should not be performed by helpers.

Rule 36 (a) provides:

"At points where there is a foreman it shall be the duty of such foreman and inspectors and repairmen at work to know personally that cars being inspected or repaired are protected by day with a blue flag and at night with a blue flag and a blue lantern suspended therefrom, and locks supplied for switches."

That rule does not require that the foreman, car inspectors and car repairmen themselves place the flag or lock the switch. Had that been the intent it more simply and easily could have been so stated. They may well know personally, as required by the rule, that the cars are being given such protection without having themselves performed the work.

Such work requires no special skill and in performing it the helper is merely performing his duty to help carmen. Whether it can be said that the inspector can "know personally" that the cars are being so protected upon being so notified via radio, is not a responsibility of the helper; from the position taken in carrier's submission here it appears to be accepted as personal knowledge by management.

The payment of a similar claim by the master mechanic-car without approval or apparent knowledge by the director of personnel is not controlling.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1961.