

Award No. 3787
Docket No. 3647
2-P&LE-TWUOA-'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: On January 12, 13, 14, 15, 22, 1959, Foreman Evan's helped the men repair cars at Dickerson Run, Pa. The Carrier has always stated that Foremen are supervisors and not repairmen, yet at this point the Foreman does help the carmen to repair cars. The Organization feels that this practice is incorrect to permit Foremen to do this work. Since Foreman Evan's performed work that should have been done by Carmen, the Organization requests that Leland Dunlap, furloughed carman be compensated eight (8) hours for each of the above mentioned days.

EMPLOYES' STATEMENT OF FACTS: This case was handled on the property of the carrier and is known as Case DR-24.

Leland Dunlap is a furloughed carman and was available for the work performed by Foreman Evans.

There is no rule in the present agreement that allows foremen to perform work that belongs to carmen.

The Railroad Division, Transport Workers Union of America, AFL-CIO does have a bargaining agreement, effective May 1, 1948 and revised March 1, 1956 with the Pittsburgh & Lake Erie Railroad Company and the Lake Erie & Eastern Railroad Company covering carmen, their helpers and apprentices, (Car & Locomotive Departments), copy of which is on file with the Board and by reference hereto made a part of these statement of facts.

POSITION OF EMPLOYES: There is no rule in the agreement to allow foremen to perform the work of the carmen and the foremen should not be allowed to perform any work that belongs to the carmen.

The organization does have a rule that was negotiated with the carrier as to what is carmen's work and the carrier should abide by this rule. This rule is Rule 25 and it reads as follows:

Award 14569 — First Division.

“* * * The claim is too broad, indefinite and uncertain and, as such, would place an undue burden on the Carrier. An affirmative award could possibly serve as a precedent for filing claims without any known merit and only for probative reasons.”

Award 15921 — First Division.

“* * * The Board cannot assume evidence that is not in the record. The mere statement of the four claims without the evidence proves nothing.”

Carrier submits that the principle established in the above quoted awards is applicable to the instant claim and same should be either denied or dismissed.

CONCLUSION

Carrier has shown that the claim as presented is so vague and indefinite as to preclude any award other than one of denial or dismissal.

Carrier has also shown that the claim for January 14, 1959 is improperly before your Board, same having not been included in those discussed on the property.

It has further been shown that on two of the dates on which claim is made, no couplers were changed at either Dickerson Run or Jacobs Creek, and it is on this repair function that the organization is basing their claim.

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.

Claim here is based on the assertion that the foreman on five different dates helped the men repair cars at Dickerson Run, Pa. It was developed by conference that the work asserted to have been done was that of assisting in lifting a coupler in place; that it was not at Dickerson Run, where the repair force consists of two men, but twelve miles from there at Jacobs Creek Yard, where no car repair men are stationed but when necessary the Dickerson Run force is transported there for repair work. One of the dates involved was not included in the claim on the property so claim for that date must be dismissed. On two of the days investigation disclosed that no couplers were changed at either place, so claim for those days must be denied. As to the remaining two days no information was given as to the nature or extent of the work claimed to have been performed by the foreman other than that he assisted the carmen lift couplers in place, although Carrier advised the Organization that the facts were confused and, since the foreman had retired, it was difficult, if not impossible for, it to develop any additional information. As to those days the claim is so vague, indefinite and uncertain that it should be denied.

AWARD

Claim for January 14, 1959, dismissed. Claim for other dates 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.