

Award No. 4595
Docket No. 4393
2-GN-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee J. Harvey Daly when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Carrier violated the current agreement when they improperly assigned carmen helpers to perform carmen's work.
2. That accordingly, the Carrier be ordered to discontinue this practice at once, and compensate Carmen William H. Eaton and Stephen Marcowka for eight (8) hours per day, at the straight time rate of pay for July 5, 1961 and each day thereafter until this claim is resolved.

EMPLOYEES' STATEMENT OF FACTS: The Great Northern Railway Company, hereinafter referred to as the carrier, maintains a freight car shop, repair track and inspection point at Superior, Wisconsin. Carmen William H. Eaton and Stephen Marcowka, hereinafter referred to as the claimants, were the oldest furloughed carmen when this time claim was filed.

In repairing freight cars, on the repair track, at Superior, Wisconsin, carmen helpers, working as car oilers and brassers, are assigned to perform all work incidental to, and the inspection of freight car journals, journal bearings and journal bearing wedges. This work consists of the dismantling of the freight car truck by placing jacks and blocking under the truck sides, jacking up the car, removing the journal bearing and wedge, and after the inspection has been completed, replacing the journal bearing and wedge and lowering the car to its running position. They also have, in their possession, a broaching machine which they operate when necessary to repair a brass. The cars on which this work is performed are interchange freight cars requiring periodic attention under the AAR Interchange Book of Rules.

Previous claims have been settled on the property and at this particular point with the local supervision ignoring these settlements.

This dispute was handled with all carrier officials designated to handle disputes.

5. The vague general language of Rule 83 does not cover the work in question, and Rules 82, 86 and 87 clearly indicate that the work of rebrassing freight cars may be assigned to helpers in accordance with past practice at Superior.

2. Even if the organization could show that the work in question was reserved exclusively to carmen mechanics, a local agreement exists concerning assignment of the work, and no evidence has been presented to show that the work is not being assigned in that manner.

For the foregoing reasons, the carrier respectfully requests that the claim of the organization 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.

Among the Carrier's extensive Car Department facilities at Superior, Wisconsin, are a Steel Car Heavy Repair Shop and Light Repair Track Shop.

The oldest furloughed Carmen at Superior were the Claimants, Carmen William H. Eaton and Stephen Marcowka.

The Organization contends that the Carrier violated Rule 83 of the controlling Labor Agreement when it assigned to Carmen Helpers—working as Oilers and Brassers—instead of to Carmen the work of inspecting journal brasses and wedges at the Repair Track Shop.

The Carrier's principal contentions are that the claims are barred by Article V of the August 21, 1954, National Agreement; and that not only does Rule 86 of the controlling Labor Agreement permit the assignment of the work in dispute to Carmen Helpers and Car Oilers and Brassers but also that Carmen Helpers have performed such work for over forty years.

The pertinent portion of Article V, Section 1 (c) of the August 21, 1954 Agreement reads as follows:

"(c) The requirements outlined in paragraphs (a) and (b), pertaining to appeal by the employe and decision by the Carrier, shall govern in appeals taken to each succeeding officer, except in cases of appeal from the decision of the highest officer designated by the Carrier to handle such disputes. All claims or grievances involved in a decision by the highest designated officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employe or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend the 9 months' period herein referred to."

The pertinent parts of the principal Labor Agreement Rules read as follows:

“Rule 42 (a) Assignment of Work.

None but mechanics or apprentices regularly employed as such shall do mechanics work as per special rules of each craft except Foremen at points where no mechanics are employees.”

“Rule 83. Classification of Work.

Carmen's work shall consist of building, maintaining, dismantling (except all-wood freight-train cars), painting, upholstering and inspecting all passenger and freight cars.”

“Rule 86. Carmen Helpers.

Employees assigned to help carmen and apprentices, employees engaged in * * * rebrassing of cars in connection with oilers' duties in train yards, cleaning journals, repairing steam and air hose. * * * stripping freight cars for repairs * * * assisting carmen in erecting scaffolds, and all other work generally recognized as carmen helpers' work, shall be classed as helpers.”

“Rule 87. Helpers Differential.

Oilers, packers and brassers, six cents (6c) per hour above their rate as helpers.”

As the record, supra, delineates the continuing claims filed by the Organization such details will not be restated in our Findings.

It is the Board's disposition that this claim is not properly before it (Board) due to the Organization's failure to comply with the time limit provisions of Article V, Section 1 (c) of the National Agreement of August 21, 1954. Consequently, the Board must dismiss this claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: William B. Jones
Chairman

E. J. McDermott
Vice Chairman

Dated at Chicago, Illinois, this 9th day of December 1964.