

Award No. 4604

Docket No. 4472

2-CRI&P-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. 6, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Carrier improperly assigned three maintenance of way employes to perform Carmen's work at Newton, Iowa.
2. That accordingly, the Carrier be ordered to compensate Carmen L. Steele, R. Hauge and J. Hoffman eight (8) hours at the punitive rate of pay.

EMPLOYEES' STATEMENT OF FACTS: On April 20, 1962, the Chicago, Rock Island and Pacific Railroad, hereinafter referred to as the carrier, instructed the section foreman and two other section men to make repairs, consisting of removing and applying 12 decking planks, to ramp car R.I. 95993 at Newton, Iowa, where no carmen are employed.

Carmen L. Steele, R. Hauge and J. Hoffman, hereinafter referred to as the claimants, were available for and were willing to perform the work performed by the three section men.

This dispute has been handled with all carrier officers authorized to handle disputes, including the highest designated officer, with the result that he too declined to adjust it.

The agreement effective October 16, 1948, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: The carrier, in all the handling of this dispute on the property has contended R.I. 95993 is not rolling stock and is just the same as an auto ramp or fixed dock. The employes would point out

nance of way men anywhere near 8 hours to apply 12 planks to the deck of this ramp, therefore, the claim made has no relationship in fact or logic to actual damage even if such had occurred.

For the foregoing reasons this claim is totally lacking in merit 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.

On April 20, 192, a Section Foreman and two Section Men made decking plank repairs to Ramp Car R.I. 95993—which was being used as a loading and unloading ramp—at Carrier's facility at Newton, Iowa, where no Carmen are employed.

The Organization contends that the Ramp was a Car; was rolling stock; that the Car's identity was not destroyed by the removal of one truck and the one coupler; and that the repair work in question belonged to Carmen according to Rules 28, 110 and 121 of the controlling Labor Agreement. Therefore, the Organization claims that, the Claimants, Carmen L. Steele, R. Hauge and J. Hoffman, who were regularly assigned Carmen at Carrier's Des Moines facility, should have been used to do the work in question, because they were available and were willing to do such work.

The Carrier contends that the Ramp was not a Car but a structure and, therefore, the work in question was performed by the proper persons. In support of its position the Carrier states that the Ramp was made from an old, retired flat car (which was no longer classed as rolling stock.)

The fact that the Ramp Car or Structure carried a Rock Island 95000 series number—the numerical designation used by the Carrier to indicate work equipment stock—is not a determinative factor in this case. (The function or use of the equipment determines its purpose and proper nomenclature.)

When the truck and coupler were removed from the same end of the Ramp Car, its function as a Car ceased. The fact that the truck and coupler were nearby is of no consequence.

A pair of skates with the front wheels removed ceases to be a functioning pair of skates, because their ability to perform has been destroyed.

Likewise, a Diesel Locomotive with its diesel engine or essential parts thereof removed, could not still be properly classified as a Diesel Locomotive.

Accordingly, we must conclude that when the truck and coupler were removed from the Ramp Car in question, (it lost its rolling stock) function and purpose and took on another use and characteristic. Consequently, the arguments and claims of the Organization must be denied.

AWARD

Claim denied.

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.