



Award No. 4965

Docket No. 4736

2-MP-CM-'66

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. 2, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri Pacific Railroad Company violated the controlling agreement, particularly Rule 118 and the No Transfer of Work Letter of May 1, 1940, at Alexandria, Louisiana on September 25, 1963 when they assigned laborers to clean journals.

2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Carman R. T. Boyd in the amount of four (4) hours for September 25, 1963, account laborers performing work contracted to the Carmen's Craft.

EMPLOYEES' STATEMENT OF FACTS: The Missouri Pacific Railroad Company, hereinafter referred to as the carrier, maintains a large repair shop, spot rip and inspection force at Alexandria, Louisiana.

On September 25, 1963, the carrier assigned a laborer to clean journals prior to changing wheels on cars CBQ 36853 and ATSF 33329. Cleaning of journals has long been recognized as work belonging to carmen and car helpers who hold contract to perform this work. Carman R. T. Boyd, hereinafter referred to as the claimant, was available to perform this work on September 25, 1963.

As stated above, the carmen's organization holds contract to perform this work and for your Honorable Board's convenience we wish to herewith quote letter dated May 1, 1940 (No Transfer of Work Letter) wherein the carrier agreed not to arbitrarily transfer work from one craft to another:

"MISSOURI PACIFIC RAILROAD COMPANY
Missouri Pacific Building
St. Louis, Mo.

May 1, 1940
A-Co 360-849

Your board will note that the laborer normally does not even remain in the vicinity of the machine while the machine is cleaning the journals. He picks up the mounted wheels with a fork lift truck and there is no necessity for him to touch the wheels or journals at any time. The laborer does not clean the journals.

Occasionally a journal has rusted slightly in spite of the protective coating. Occasionally also, the machine will not clean off the last traces of the protective coating. In these cases the carman, or a carman helper if he is available, will remove the rust or the protective coating by hand at the time he inspects the journal prior to installing the mounted wheels under a freight car.

It is apparent from the foregoing that the carrier has mechanized the process of cleaning journals at Alexandria as well as at other points and that the manual labor of cleaning journals by employes of the carmen's craft has been eliminated. The work has not been transferred to laborers as alleged by the Employees. Rule 118 was not violated by the installation of the journal cleaning machine.

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.

Claim 1 is that the Agreement was violated, and particularly Rule 118, thereof and the May 1, 1940 "No Transfer of Work Letter" when the Carrier "assigned laborers to clean journals". Rule 118 is the Carmen Helpers' Classification of Work rule, which specifically mentions "cleaning journals;" the May 1, 1940 letter related the System Federation's proposal for the handling of jurisdictional disputes; it was signed by the Carrier's Chief Mechanical Officer and Special Assistant, Personnel, and did not agree to the proposal, but concluded as follows:

"It is not our policy to arbitrarily transfer work from one craft to another without an understanding having been had prior to the transfer with the appropriate representative of the employes and this policy will be followed."

Prior to September 25, 1963 laborers had delivered assembled axles and wheels to carmen, who then cleaned the journals of the coating kept on them during storage to prevent rust, and proceeded to install them in cars. After that date the Carrier had the laborers pick up the wheel assembly with a fork lift truck and place it in an automatic wheel washing machine; apparently they originally had to turn a switch to start the cleaning machine motor, but a modification was made by which the insertion of the wheel assembly automatically started the motor.

The Organization alleges, and submits a laborer's statement to show, that the laborer not only places the wheel assembly in the machine and takes it

out again, but also turns the machine on, holds cleaning material against the journal with a stick to assist the cleaning process, turns the machine off, wipes the journals clean, and uses steel wool to clean rust off journals. During the handling on the property it also alleged, but submitted no statement to show, that during the cleaning process, the spraying of cleaning fluid on journals is regulated by hand.

The Carrier alleges, and submits a statement to show, that in connection with the delivery of the wheel assembly to carmen at the repair tracks the laborer merely moves it to and from the cleaning machine, which is entirely automatic; that its placing in the machine automatically starts the cleaning action; that its removal stops the machine; that the laborer is not required to leave the fork lift truck during the operation; and that if any further cleaning of the journals is necessary it is performed at the repair site by carmen.

Also, according to the Carrier, the laborer takes a wheel assembly from the storage point, and places it in the cleaning machine; while it is operating he gets the next pair of wheels and brings it to the machine; when the first is cleaned, he takes it out with the fork lift truck, puts in the second assembly and while it is being cleaned he takes the first to the repair track for the carmen's use; that thus he does not ordinarily remain near the machine while it is cleaning the journals. The Organization replies that the laborer's statement and the local chairman's letter to the general chairman concerning the claim show otherwise.

This Board thus has an unresolved disputed question of fact which it is not in a position to resolve, whether laborers perform any of the physical work of cleaning journals which was formerly done by carmen.

It is clear that the Carrier is entitled to eliminate or minimize physical labor by such a method, and that it is not a violation of the Agreement if a laborer, before the delivery of wheel assemblies to the repair facility, but without performing any physical labor of cleaning, merely moves them into and out of the machine and turns it on, either by inserting them, or simply turning a switch. See Awards 3523, 4748 and 4796.

As shown above, it is a disputed question of fact whether in addition the laborer performs some actual physical cleaning work, as alleged. Since that question is unresolved this Division cannot conclude from the record that a violation has occurred.

Under the circumstances it is unnecessary to determine the intent, applicability or affect of the final paragraph of the May 1, 1940 letter cited in the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October, 1966.

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