Award No. 5462
Docket No. 5155
2-LV-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee William H. Coburn when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 96, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Carmen)

LEHIGH VALLEY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

That the Carrier improperly assigned Trainmen on February 14, 1965 to perform the work of Carmen in making inspection, air test and the related coupling of air hoses on three cars at Easton, Pa.

That accordingly the Carrier be ordered to compensate Carman James W. Wismer in the amount of eight (8) hours at the time and one-half rate of pay for February 14, 1965.

EMPLOYES' STATEMENT OF FACTS: Carman James W. Wismer, ıereinafter referred to as the claimant, is regularly assigned to position on the ırst shift with rest days Saturday and Sunday. He was available to be called or this work on Sunday, February 14, 1965, but was not called.

On Sunday, February 14, 1965, the regular car inspector on duty at Easton, a. was taken from his regular assignment and sent to cripple track at ichards Yard, Easton, Pa., to repair cars.

During his absence Yardmaster assigned Trainmen to perform Carmen ork in coupling air hoses, make the proper air test and inspection thereto to ıree cars which were then moved from transportation yard to main line and ıparted outbound.

POSITION OF EMPLOYES: It is submitted that the work involved in is dispute is Carmen work and has been recognized as such, and that Carmen e assigned for a long time to perform this work at Easton, Pa.

Work that has been assigned to and performed by Carmen belongs to this aft and carrier has no right to assign such work to another class or craft.

The agreement effective September 1, 1949 as it has been subsequently ıended is controlling.

Carrier respectfully submits this claim is without merit and should be denied.

(Exhibits not reproduced.)

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.

Claimant, a regularly assigned carman with Saturdays and Sundays off, was available but on his rest day, February 14, 1965, when the work giving rise to the claim was performed. He was not called for such work and now seeks compensation of eight hours at the time and one-half rate. The car inspector regularly on duty at Easton, Penna., on Sunday, February 14, 1965, had been taken off that assignment and transferred to another yard to perform car repair duties.

The claim is based upon the contention of the Employes that Carrier violated the basic agreement and the National Agreement of September 25, 1964, when it assigned work belonging to the Carrier's craft to Trainmen, i.e., coupling air hose and making ". . . the proper air test and inspection thereto to three cars which were then moved from transportation yard to main line and departed outbound."

The carrier defends by alleging that the yard crew made no inspection of the train (consisting of an engine and three cabooses) but ". . . only coupled the air hoses between their engine and the first caboose and between the second and third caboose being picked up and moved by their own engine and applied the air brakes." (Carrier's Submission, p. 3.) Moreover, the Carrier asserts, Carmen do not enjoy the exclusive right under the cited agreements, to perform the work here involved.

It is clear that the basic agreement contains no provision specifically granting to Carmen the exclusive right to perform that work. And the evidence of record establishes that since April 8, 1949, when the Carrier and the Brotherhood of Railroad Trainmen entered into a special agreement, Trainmen have been engaged in the coupling and uncoupling of air hose and the making of air tests on cars handled by them in the course of performing their assigned duties. Furthermore, even the operating rules provide that it is the **joint responsibility** of Carmen and Trainmen for the condition of air brakes and air signal equipment by jointly or severally making the required air tests. (Op Rules Nos. 7 and 8-c.) Thus it is conclusively shown that neither trainmen nor carmen, as a matter of practice or rule, have enjoyed the exclusive right to perform the work in dispute.

In 1964 these parties entered into the National Agreement of Sept. 25 Article V thereof reads:

"In yards or terminals where carmen in the service of the carrier operating or servicing the train are employed and are on duty in the departure yard, coach yard or passenger terminal from which trains depart, such inspecting and testing of air brakes and appurtenances on trains as is required by the carrier in the departure yard, coach yard, or passenger terminal, and the related coupling of air, signal and steam hose incidental to such inspection, shall be performed by the carmen.

This rule shall not apply to coupling of air hose between locomotive and the first car of an outbound train; between the caboose and the last car of an outbound train or between the last car in a 'double-over' and the first car standing in the track upon which the outbound train is made up."

From the facts of record in this case there is no ground for dispute that the coupling of air hoses here performed by trainmen was incidental to the handling or movement of cars in their own train and was not incidental to the mechanical inspection and testing of air brakes and appurtenances on that train by carmen. The record is devoid of any evidence that the trainmen performed such mechanical inspection and testing as is clearly contemplated by Article V to be work belonging exclusively to carmen. The argument made by the Employes that trainmen necessarily were required to conduct a mechanical inspection or the Carrier would have been liable for violation of the ICC regulations is not persuasive that that inspection was, in fact, made. What is established is that a train crew coupled the air hoses and made the usual air test as an incidental part of the duty of handling cars in its own train. As this Board said in Second Division Award No. 457, (without a Referee):

"Coupling air hose and making the usual air tests, incidental to the duties of train service employes, is in connection with inspection and repair to cars, not a violation of the Carmen's agreement. The coupling of air hose and air brake tests, incidental to inspection and repairs to cars, is carmen's work."

In view of the foregoing, the Board finds no violation of the agreement rules cited and relied upon by the Employes.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 21st day of June, 1968.

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