



Award No. 5732

Docket No. 5594

2-CRI&P-CM '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYEES'
DEPARTMENT, AFL - CIO
(CARMEN)**

CHICAGO, ROCK ISLAND and PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement other than Carmen were improperly used to scrap Rock Island Car 90176 at Fort Worth, Texas on January 20, 21, 23, 24 and 25, 1967.
2. That, accordingly the Carrier be ordered to compensate the following Carmen for eight hours each at the time and one-half rate for the dates shown:

Mr. L. Wilerson & Mr. H. S. Stanley on January 20th, 1967; Mr. J. F. Turpen & Mr. W. D. Abshire on January 21st, 1967; Mr. R. L. Higgins & Mr. G. H. Walls on January 23rd, 1967; Mr. L. Wilkerson & Mr. H. S. Stanley on January 24th, 1967; Mr. W. D. Abshire & Mr. G. H. Walls on January 25th, 1967.

EMPLOYEES' STATEMENT OF FACTS: The Carrier maintains a Repair Track and Train Yard at Fort Worth, Texas where the claimants are regularly employed as Carmen.

On January 20th, 1967 two employees of the L. Moor Salvage Company of Justin, Texas came onto the Repair Track at Fort Worth, Texas and started cutting up Rock Island Car 90176, a flat car for salvage. These two employees worked eight hours each day on January 20, 21, 23, 24 and 25, 1967 cutting up this flat car.

This flat Car, Rock Island 90176 was a part of the wrecking outfit at Fort Worth which had been replaced by a wrecking truck.

This dispute has been handled with all officers of the Carrier designated to handle such disputes, including the highest designated officer of the Carrier, all of whom have failed to make satisfactory adjustment.

"Similar claims, many on this same Carrier have been resolved against the organization by this Division in Awards 3158, 3159, 3184, 3185, 3228, 3229, 3230, 3233 and 3269."

(Second Division Award 3739)

CONCLUSION

There is no basis for this claim inasmuch as the disputed work was performed on other than this Carrier's equipment. Nor was the flat car in question at the time in dispute any longer considered as a part of this Carrier's or any other Carrier's rolling stock to be used in its railroad business. Therefore your Board is requested to deny this claim.

It is hereby affirmed that all of the foregoing is a matter of correspondence or conference between the parties or is known thereto. Oral hearing before the Division is not requested unless requested by the Brotherhood. However, if this case is dead-locked by your Division and submitted to a Referee for determination, the Carrier demands the right to be heard before the Referee.

(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.

Carrier sold a bad order flat car to a salvage company as is where is. The condition of the car was such that it could not be moved. The purchaser came onto Carrier's property, cut the car into scrap and removed the scrap. Carmen filed claim that scrapping cars on Carrier's property is, by Rule 45, reserved to Carmen.

Rule 45 is applicable only to the scrapping of cars on Carrier's property for its account.

Title to the car here involved was vested in the purchaser. The manner of disposition of the car was vested in the purchaser. That the purchaser had the car cut into scrap, by its employes, on Carrier's property is immaterial. We will deny the claim. See Third Division Award Nos. 10826 and 14420.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

**ATTEST: Charles C. McCarthy
Executive Secretary**

Dated at Chicago, Illinois, this 27th day of June, 1969.