

Award No. 6120

Docket No. 5977

2-MP-CM-'71

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Francis X. Quinn when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri Pacific Railroad Company violated the controlling agreement when they arbitrarily assigned other than carmen (machinist) to remove engineer's seat from diesel unit No. 1257 and replace it in diesel unit No. 1267 at the Greater Little Rock Terminal on January 9, 1969.

2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate Locomotive Carpenter L. D. Burns in the amount of two hours, forty minutes (2' 40") at the punitive rate for January 9, 1969, as he was available and should have been called to perform this work.

EMPLOYEES' STATEMENT OF FACTS: The Missouri Pacific Railroad Company, hereinafter referred to as the carrier, maintains the Greater Little Rock Terminal at Little Rock, Arkansas, which includes the Little Rock Union Station Property and the North Little Rock Diesel Facilities, which are located across the Arkansas River from Little Rock, which is one point with one seniority roster since the consolidation of seniority rosters effective July 1, 1958, and carmen of all classes are employed at this point on all three shifts. However, on January 9, 1969, machinist removed engineer's seat from diesel unit No. 1257 and replaced it in diesel unit No. 1267 account seat in diesel unit No. 1267 was broken. This work was performed in the diesel facilities, which is referred to as the service track and located in the middle of the Greater Little Rock Terminal at North Little Rock, Arkansas. Locomotive Carpenter L. D. Burns, hereinafter referred to as the claimant, was on duty and available to perform this work which comes within the scope of Carmen's Classification of Work Rule 117, and when the carrier arbitrarily assigned this work to other than carmen they violated the agreement as well as Letter of Understanding of May 1, 1940, wherein the carrier agreed not to arbitrarily transfer work from one craft to another.

considerable amount of time illustrate the fact that there is practically no work for a locomotive carpenter at the servicing facility. None of these situations involve actual repairs to defective equipment. The volume of work simply does not justify the employment of a locomotive carpenter at the servicing facility.

As we have seen above, the work in dispute does not fall within the Carmen's Classification of Work Rule. Such work has not been contracted to the Carmen's craft. This is work which a machinist may perform at any location as an incidental part of his duties of inspecting diesel units. The claim should be declined for that reason.

Without waiving the foregoing defense to this claim, we have, nevertheless, shown that the 400 Yard Diesel Servicing Facility at North Little Rock is a separate work location from the Pike Avenue Diesel Facility. No locomotive carpenters are employed at that work location and mechanics employed at that work location may perform the work of any craft not having a mechanic employed at that point. Since there is not sufficient work to justify employing locomotive carpenters at the servicing facility, mechanics employed at that point, including machinists, may perform the work of the carmen's craft. It follows that the claim on behalf of a locomotive carpenter at Pike Avenue Diesel Facility is not supported by the rules and is lacking in merit and should be declined.

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 January 9, 1969, the engineer's seat on Diesel Unit 1267 became defective while the unit was working in the yard at North Little Rock. A similar diesel unit, Diesel Unit 1257, was not in use at the time and was at the 400 Yard diesel servicing facility. A machinist on duty removed the engineer's seat from Diesel Unit 1257. The machinist removed the defective seat from Unit 1267 and replaced it with the seat from Unit 1257.

This claim was filed on behalf of a Locomotive Carpenter employed in the Pike Avenue Diesel Facility, some two miles from the 400 Yard Diesel Servicing Facility. Petitioner contends that a Locomotive Carpenter should have been called to perform the disputed work because all of Carrier's facilities located at the Greater Little Rock Terminal constitute a single "point" in which both carmen and machinists are regularly assigned.

The Agreement of June 1, 1960, as amended, and the Letter of Understanding of May 1, 1940 are controlling. Rule 117 of the controlling agreement reads:

"RULE 117.

CARMEN CLASSIFICATION OF WORK

Carmen's work, including regular and helper apprentices, shall consist of building, maintaining, painting, upholstering and inspecting of all passenger and freight cars, both wood and steel, planing mill, cabinet and bench carpenter work, pattern and flash making and all other carpenter work in shops; carmen's work in building and repairing motor cars, lever cars, hand cars and station trucks; building, repairing, removing and applying wooden locomotive cabs; pilots, pilot beams, running boards, foot and headlight boards, tender frames and trucks (see note); pipe and inspection work in connection with air brake equipment on passenger and freight cars; applying patented metal roofings; work done with hand forges and heating torches in connection with carmen's work; painting with brushes, varnishing, surfacing, decorating, lettering, cutting of stencils and removing paint (not including use of sand blast machine or removing in vats); all other work generally recognized as painters' work under the supervision of the locomotive and car departments except the application of blacking to fire and smoke boxes of locomotives in engine house; joint car inspectors, safety appliance and train car repairers; oxyacetylene, thermit and electric welding on work generally recognized as carmen's work; and in all other work generally recognized as carmen's work."

The above cited rule, while itemizing the work falling with the Carmen's craft, does not mention trivial matters such as removing the engineer's seat in the diesel unit.

The record indicates that mechanics on duty in 400 Yard Diesel Servicing Facility performed the work in line with Rule 26(b) as amended by Article IV of the September 25, 1964 Agreement. That rule reads as follows:

"At points where there is not sufficient work to justify employing a mechanic of each craft, the mechanic or mechanics employed at such points will so far as they are capable of doing so, perform the work of any craft not having a mechanic employed at that point. Any dispute as to whether or not there is sufficient work to justify employing a mechanic of each craft, and any dispute over the designation of the craft to perform the available work shall be handled as follows: At the request of the General Chairman of any craft the parties will undertake a joint check of the work done at the point. If the dispute is not resolved by agreement it shall be handled as hereinafter provided and pending the disposition of the dispute the carrier may proceed with or continue its designation.

Existing rules or practices on individual properties may be retained by the organizations by giving a notice to the carriers involved at any time within 90 days after the date of this agreement."

Carrier avers that under the above cited rule that the 400 Diesel Servicing Facilities is a separate work location in the North Little Rock Yard at which no locomotive carpenters are employed, and that it was proper to use a regularly assigned Machinist to perform the work in dispute.

The fundamental issue for determination is whether the various work locations at North Little Rock collectively constitute a single "point" or are to be considered separate "points" in the application of Rule 26(b) as amended by Article IV of the Agreement of September 25, 1964.

Award No. 5613 of this Board has described "point" as a particular place having a definite position or situs. Prior awards of this Division have held that the burden is upon the petitioner to establish through competent evidence that a Carrier's entire operation within a large metropolitan area constitutes a separate "point" even though all positions therein are filled from a single seniority roster. Awards 4620, 4962, 5168 and 5613.

In the instant case the work was trivial. A few minutes were needed to replace the defective seat and the petitioner has offered no probative evidence concerning prior practice under similar circumstances and the applicable Agreement contains no definition of the term "point."

After careful review of the record, the Agreement and prior awards of this Board, the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 21st day of April, 1971.