

**Award No. 6150
Docket No. 5969
2-SOO-CM-'71**

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**The Second Division consisted of the regular members and in
addition Referee John J. McGovern when award was rendered.**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 66, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

SOO LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current Agreement, the Carrier improperly assigned Carmen to perform Carmen-Painter's work at Shoreham Shops, Minneapolis, Minnesota commencing April 15, 1968, and is so still doing.

2. That accordingly, the Carrier be ordered to additionally compensate Carmen Painters P. Jorgenson and J. F. Borris each in the amount of eight (8) hours' time and one-half pay five (5) days per week beginning April 15, 1968 and for each week thereafter until this dispute is settled.

EMPLOYEES' STATEMENT OF FACTS: The above named men, hereinafter referred to as the claimants, are employed by the Soo Line Railroad Company, hereinafter referred to as the carrier, as carmen painters regularly assigned as such at Carrier's Shoreham Shops, Minneapolis, Minnesota, and constitute the rostered employees coming under the subdivision of Painters in the carmen's craft at that point.

On April 15, 1968, carrier started applying automatic car identification labels, which are more commonly referred to as A.C.I. labels. The label is composed of thirteen digits represented by horizontal plastic strips of various colors. Four of the strips give the numerical code, owner, and type of car. Six stripes give the unit's number. The bottom strip tells the track side scanner to start "reading" and the twelfth strip tells the scanner to stop.

To apply the A.C.I. labels, 8 by 24-inch areas are sanded down to the bare metal on each side of the unit with a portable grinder. Then a liquid adhesive primer is applied with a brush to the sanded area. A metal template with thirteen slots is now positioned on this area and the thirteen

POSITION OF CARRIER: It is the position of the carrier that the application of ACI labels is new work not contracted to carmen-painters, work which requires none of the skills peculiar to carmen-painters, and work that is similar to that performed by other carmen at Shoreham in the past. It is further the position of the carrier that both claimants have been at all times since inception of their claims employed full time, and have suffered no loss of pay.

At the time of the last revision of the Carmen's Classification of Work Rule, the concept of an automatic car identification system was not even a gleam in the eyes of the A.A.R. Research Department. While Scotchlite tape was introduced to the market in the early 1950's, no one envisioned the present use to which it is being put. The application of Scotchlite modules to freight cars was never contemplated when the Carmen's Classification of Work Rule was negotiated. This is new work not contracted or reserved to carmen as a class and most certainly not reserved to carmen-painters exclusively. As such, carrier reserves the right to designate which class or craft, or subdivision thereof, shall perform this work.

The application of ACI labels to cars reduced to its simplest terms is nothing more or less than applying Scotchlite adhesive tape strips to the side of a car or backing plate in a certain prescribed manner. Except for the care in making sure that the separate modules are applied in the proper sequence, it is not much more complicated than applying bumper stickers, decals, or masking tape. The application of the primer-activator is primarily to insure a good bonding of the Scotchlite and the application of the black enamel or Rustoleum is no more than stenciling, and the Board has held on previous occasions that stenciling is not within the exclusive jurisdiction of painters in the carmen's craft. (3512 - Bailer). The entire procedure is relatively simple, and requires none of the special skills setting carmen-painters as a class apart from general carmen. Freight carmen at Shoreham and Fond du Lac have applied Scotchlite sheets to the cupolas of forty new cabooses purchased since March, 1966.

Even were it held that the work in issue was reserved exclusively to carmen-painters, claimants suffered no loss. Claimants are the only two employes on the Shoreham Repair Track Painters' roster and at all times pertinent were fully employed. The work in question would in no event be performed on an overtime basis. Under such circumstances, the Board has often held that a money claim is not valid. See Awards 3672, 3967, 4083, 4086, 4112, 4665, 5152 and 5347.

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 employees 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.

The issue in this case is whether the application of ACI labels (Automatic Car Identification) to freight cars is work which belongs to Carmen Painters exclusively. The purpose of such labels and the methods used to apply them to the cars is adequately described in the record and need not be repeated. Suffice it to say that in the process of application, some painting is required.

The Organization relies on Rules 27, 28 and 94 of the basic, collective bargaining agreement. Rule 28 is a seniority rule which subdivides carmen and carmen painters, among others. Rule 28 states simply that "none but mechanics or apprentices regularly employed as such shall do mechanics' work", etc. Rule 94 is the Classification of Work Rule and in pertinent parts reads as follows:

"Carmen's work shall consist of * * * painting

*** * * * ***

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", etc.

Carrier maintains that the application of the ACI labels to freight cars is new work, and cannot have been within the contemplation of the parties when the collective bargaining agreement was signed. To be sure, the work involved does consist of some painting and other related work generally associated with that of a painter. However, this is not the principal part of the work performed, a substantial portion of which would, from our reading of the description of the process used, is work not generally associated with that of a painter. It is new work developed in the late 1960's. Carrier, except insofar as it limited itself by law or agreements, has great latitude in the assignment of new work. It has exercised its managerial prerogatives, and since there is no rule or agreement which requires Carrier to assign this work to Carmen painters or any other class or craft of shop craft employe, we must of necessity issue a denial award.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION**

**ATTEST: E. A. Killeen
Executive Secretary**

Dated at Chicago, Illinois, this 15th day of June, 1971.

Keenan Printing Co., Chicago, Ill.

Printed in U.S.A.