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NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6531
Docket No. 6331
2-N&W-CM-'73

The Second Division consisted of the regular members and in addition Referee Irving R. Shapiro when award was rendered.

Parties to Dispute:

{ System Federation No. 16, Railway Employees'
{ Department, A. F. of L. - C. I. O.
{ (Carmen)
{
{ Norfolk and Western Railway Company

Dispute: Claim of Employees:

1. That the Norfolk and Western Railway Company violated Rules No. 30 (a), 110 and 122 of the Current Agreement and damaged Carmen R. G. Hall and J. E. Porterfield, when on June 18 and 27, 1970, management instructed Trainmen to perform the inspection of car and/or cars, same being recognized as Carmen's work.
2. That the Norfolk and Western Railway Company be ordered to compensate Carmen R. G. Hall four (4) hours at the straight time rate of pay for June 18 and J. E. Porterfield four (4) hours at the straight time rate of pay for June 27, 1970, account such inspection made by Trainmen with interest accruable at the 6% rate until paid.

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.

In the early morning hours of June 18 and June 27, 1970, certain trains of the Carrier heading for its Elmore, West Virginia Yards passed a Hot Box detector. Said detector signaled that in each of two trains involved, one of their freight cars had something dragging. The train crews were immediately ordered by radio to halt the trains and ascertain whether the equipment was in safe condition to proceed. The trains were brought to a stop as soon as possible and the particular freight cars (one on each train) which the detector had signaled as having a problem were examined by the operating crews. Nothing was found which would prevent safe movement and the trains then proceeded into the Yard.

Petitioner charges that Carrier violated the Controlling Agreement when it instructed the train crew to inspect the equipment which had triggered a signal of defect, instead of calling upon claimants, regularly assigned Carmen at the Carrier's Elmore, West Virginia Yard, to inspect the cars. The work of inspecting

freight and passenger cars, according to Petitioner, is, under terms of the Controlling Agreement, to be performed by Carmen. Carrier rejected the claim on the ground that the work performed by the train crews did not constitute "inspections" encompassed in the Controlling Agreement's scope of the work rules for Carmen, the pertinent parts reading:

"CLASSIFICATION OF WORK

*Rule No. 110

Carmen's work shall consist of building, maintaining, painting, upholstering and inspecting all passenger and freight cars, both wood and steel, ... (except necessary repairs made by Maintenance of Way and Signal employes while such equipment is in their charge); ... pipe and inspection work in connection with air brake equipment on freight cars; ... and all other work generally recognized as carmen's work."

Essentially the Board is called upon to determine whether the train crews were instructed to "inspect" the potentially unsafe freight cars as that word was intended in the coverage of the above quoted rule.

This Board, in a number of Awards, endeavored to clearly delineate the application of the Rule in similar and comparable situations. Awards 3745, 3920, 4191, 5708, 5766, 6031. The holdings are consistent. The Board will not give favorable consideration to a claim of breach of such rule, absent a clear showing with probative evidence by Petitioner that the ordered inspection by employes other than Carmen was in connection with the maintaining and repairing of the cars.

In the instant controversy, the detector signaled a condition on one of the cars in each of the trains which could cause a derailment, namely, something dragging. Immediate action was indicated and taken to avert injury, damage, and disruption. The crews were instructed to check the potentially dangerous cars and ascertain, by observation, whether they were fit for further movement. There is no evidence that the crews were ordered to undertake any repairs or mechanical adjustments. This does not fall within the meaning of the word "inspection" which we have found to be applicable for purposes of scope of the work rules comparable to that in the Controlling Agreement between the parties hereto.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 20th day of June, 1973.