

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: (System Federation No. 6, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Elgin, Joliet and Eastern Railway Company

Dispute: Claim of Employees:

1. The Elgin, Joliet and Eastern Railway Company, herein referred to as the Carrier, failed to call Carman Elton C. Johnson, herein referred to as the Claimant, to operate the Car Department Truck #157 in violation of the accepted practice at Joliet, Illinois. This action by the Carrier circumvented the purpose and intent of Article V of the April 24, 1970 Agreement.
2. The Carrier be ordered to pay Claimant eight (8) hours pay at the double time rate for this violation.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 instant claim arose when on Sunday, May 21, 1972, claimant's second rest day, Carrier used a carman to operate Car Department Truck #157. It is his contention that since he stood first out as truck driver on the truck driver's overtime list he should have been called to operate Truck #157.

We do not concur with Claimant that he should have been called to operate truck #157. On the claim date, Carrier's mobile cranes were inoperative and so that car repairs on the rip track would not be interrupted or delayed, Car Department Truck #157 was placed on the repair track and its boom was used as a substitute for the inoperable

mobile cranes to facilitate rip track repairs. This is not disputed. Since the truck was used solely to perform the duties normally performed by the mobile cranes it had lost its identity as a truck and had taken on the identity of a crane. Truck #157 was equipped with a boom crane, blocks, frogs, tools and other equipment which is used in clearing derailments and rerailing cars and has been used in the past to facilitate repairs on the rip track.

Since the truck was used as a stationary crane on the claim dates, claimant had no right to be called from the truck driver's overtime list to operate it. In its capacity as a crane, operation of the truck properly belonged to carmen, and when a carman was so used no contractual violation resulted.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 22nd day of May, 1974.