

The Second Division consisted of the regular members and in addition Referee Hyman Cohen when award was rendered.

(Brotherhood Railway Carmen of the United States  
( and Canada  
Parties to Dispute: (  
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Rule 102 of the controlling agreement when they used Assistant General Car Inspector J. M. Lambert to inspect freight cars MP 821297; MP 726199; MP 726438; MP 734865; MP 821232; MP 734945; MP 731006; MP 820038; MP 726548 at Bastrop, Louisiana.

2. That the Missouri Pacific Railroad Company be ordered to compensate Carman O. L. Howard in the amount of four (4) hours at the pro rata rate.

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 employees 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 Carrier operates a train yard and repair facility at Monroe, Louisiana.

On February 25, 1983, the Assistant General Car Inspector, stationed at Monroe, Louisiana, went to Bastrop, Louisiana, and inspected several freight cars.

The Carrier has Carmen employees on duty twenty-four (24) hours a day, seven (7) days a week at its Monroe facility. Among the Carmen employed at its facility is the Claimant.

The Organization contends that the Carrier violated Rule 102 of the Agreement because the Assistant General Car Inspector performed work to be performed exclusively by Carmen. On the other hand the Carrier argues that the inspection in question is a proper exercise of Supervisory responsibility.

After carefully examining the record, the Board concludes that the duties performed by the Assistant General Car Inspector were incidental to the legitimate exercise of Supervisory duties.

The cars were inspected, in part, for damage after being released from an industry at Bastrop. This inspection is performed by Supervisory personnel so that damage to a freight car can be detected as soon as possible in order to determine the party responsible for the damage. In this way, the damage is documented and the industry responsible for the damage can be billed for repairs. Moreover, the inspection by the Assistant General Car Inspector was for the purpose of checking the manner in which maintenance has been performed and is needed, and to determine the quality of inspections performed by Carmen. These duties, in the view of the Board, come within the purview of Supervisory duties and are not included within the classification of Work Rule (Rule 102). This conclusion is reinforced by Second Division Award No. 3522 in which the following was stated:

"The measuring of piston travel, as done by the foreman in the instant case, cannot be considered as work accruing exclusively to the carman craft. General car foreman, general car inspectors, master mechanics, general master mechanics, etc., regularly check behind those under their supervision to insure proper performance of work and compliance with existing rules and regulations. The files of the carrier contain many reports made by general car inspectors, general master mechanics, etc., concerning irregularities observed, including improper piston travel on cars checked by other than carmen. The employes have never previously taken exception to such measurements being made by supervision.

The measuring of piston travel, as done by the foreman in this case, has long been recognized by the employes as one of the requirements necessary in the exercise of supervision."

It should be underscored that no Carmen are employed at Bastrop; nor do any Carmen hold seniority at that point. Thus, in the absence of evidence to demonstrate that the work in question has been historically performed by Carmen (indeed, the evidence is to be contrary) it is highly unlikely that the work in question constitutes Carmen's work.


Based upon the record, the inspection in question was not for the purpose of writing up defects for Carmen to make repairs. The Board is unpersuaded by the evidence presented by the Organization that Supervisors are prohibited from performing the work in question.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 10th day of December 1986.