

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

LeRoy A. Rader, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, as amended, particularly the Scope, when the unloading of diesel oil into storage tanks, Crestline, Ohio, Fort Wayne Division, was assigned to M. of E. shop employees.

(b) The senior available Group 2 Stores Department employees, Crestline, Ohio, be allowed an eight-hour day at the punitive rate of pay retroactive ninety days from March 5, 1948, and for each day until adjusted, that such employees were used.

EMPLOYES' STATEMENT OF FACTS: This dispute is between the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees as the representative of the class or craft of employees in which the Claimant in this case held a position and the Pennsylvania Railroad Company—hereinafter referred to as the Brotherhood and the Carrier, respectively.

There is in effect a Rules Agreement, effective May 1, 1942, covering Clerical, Other Office, Station and Storehouse Employees between the Carrier and this Brotherhood which the Carrier has filed with the National Mediation Board in accordance with Section 5, Third (e), of the Railway Labor Act and also with the National Railroad Adjustment Board. This Rules Agreement will be referred to herein from time to time without quoting in full.

The Carrier maintains in connection with the operation of an Oil House, located near the Enginehouse, Crestline, Ohio, Fort Wayne Division, positions of Oil House Attendant. Such positions are Group 2 positions and the positions and the incumbents are covered by all of the applicable Rules of the Rules Agreement.

With the inauguration of Diesel locomotives on the Fort Wayne Division, oil storage tanks were built at the Passenger Station, Enginehouse, and west end of Crestline Yard, Crestline, Ohio, and placed in operation on November 1, 1947. The unloading of oil tank cars into these storage tanks is normally

Agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The Carrier has shown that the work here in dispute does not accrue exclusively to Group 2 Stores Department employees coming under the Scope of the Clerks' Agreement, and that the unnamed Claimants are not entitled to the compensation which they claim.

Therefore, the Carrier respectfully submits that your Honorable Board should deny the claim of the Employees in this matter.

All data contained herein have been presented to the employees involved or to their duly authorized representatives.

(Exhibits not reproduced).

OPINION OF BOARD: There is a joint statement of agreed upon facts in this case. The essential facts are with relation to the operation; with the advent of diesel locomotives, oil storage tanks were built at Crestline, and the unloading of oil from tank cars at the Passenger Station, engine house and the west end of yards to the storage tanks required the following operation:

The removal of cap off lower valve of tank car, open valve to permit oil to flow from the bottom of the car, opening valve in the suction line to the pump located in the pump house, opening several valves on the discharge side of the pump, to permit flow to the main discharge side of the pump, to permit flow to the main discharge line leading to the several storage tanks, and then operate two valves at the particular tank to be filled. After the tank is unloaded, push button is operated to stop the pump, lever is operated on the meter which stamps on a record card the amount of oil unloaded.

Petitioner contends that as the tank cars are billed to the stockman, Stores Department, and the empty cars are billed out by the Stores Department employees, and this Department also maintains record of oil unloaded that Carrier wrongfully assigned the work of unloading oil from the tank cars to the storage tanks to Maintenance of Equipment employees, usually a shop mechanic and a shop laborer, who are outside the scope of the Clerks' Agreement. Also it is contended the work of unloading the tank cars to the storage tanks belongs to Group 2 clerical employees. That prior to November 1, 1947 there were oil station attendants, Group 2 employees maintained at this location and their duties included the receiving and issuing of oil and the keeping of necessary records and therefore this work was not new work, but had been performed through the years. Cited in support of this position are Awards 3746, 4033, 4078, 4688, 5117, 6448, 7203 and 1314, with other Awards.

Carrier takes the position that Petitioner seeks an award in favor of unnamed claimants to the exclusive right to the operation of transferring diesel fuel oil from tank cars to storage tanks, and that this work has always been performed by employees of the Shop Department incidental to other duties, citing specifically the unloading of fuel coal for steam engines. That Petitioner cites no rules to establish such exclusive right as claimed, or that these employees have ever performed like work. And the Scope Rule does not give any such right to the work in question. Also that this question has been before this Division in Award 5702 with the result of a denial award.

It is our opinion that the Scope Rule does not have the broad application as contended herein by Petitioner and that the reasoning on a similar situation involving the principal question as presented here was decided in Award 5702 and we specifically concur in that Award and consider that it likewise

applies in this case. Several other questions are presented in this record; however, in view of the finding to be made here we do not consider that it is necessary to go into these phases of the case.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 7th day of March, 1956.