

Award No. 4847

Docket No. MW-4797

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

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

(1) That the Carrier violated the agreement by assigning to forces other than Maintenance of Way Coal Chute Employees the work of operating the conveyor used in coaling locomotives and the handling of locomotive coal at Eldon, Iowa, during the period beginning December 13, 1945 and continuing up to the present time;

(2) That Coal Chute Employees Alva Ferrell, Harold Kildow, and J. P. McAllister be reimbursed for all compensation lost account of this violation of the agreement referred to in Part (1) of this claim;

(3) That the above named claimants be returned to their positions at Eldon, Iowa, which the Carrier abolished on December 13, 1945.

EMPLOYEES' STATEMENT OF FACTS: On or about December 13, 1945 the Carrier abolished the three positions of coal chute men at Eldon, Iowa. The reason for so doing was that the Carrier had installed what is referred to as a "Red Devil" coal chute conveyor, which was located in the yards back of the Roundhouse. Since that date the Carrier has required the Mechanical Department forces to operate this referred to "Red Devil" coal chute conveyor to fuel the Carrier's locomotives. We attach as Employees' Exhibit "A" a picture of the referred to "Red Devil" coal chute conveyor.

The Employees contend that the Carrier violated the Agreement when it abolished these three referred to positions of coal chute men and assigned the coaling of locomotives at Eldon to employees having no seniority under the scope of this effective Agreement. The Carrier has contended that there has been no violation of the Agreement and that the Carrier was proper in assigning Mechanical Department employees to operate this conveyor used to coal locomotives.

The Agreement in effect between the two parties to this dispute, dated May 1, 1938, and subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

POSITION OF EMPLOYEES: As stated in our Statement of Facts the Carrier assigned the work of coaling its locomotives at Eldon, Iowa to

3 Ver Triest, Alphonse	Rock Island, Illinois	July 1, 1922
4 Rutherford, Louis	Peoria, Illinois	September 20, 1924
5 Ball, John W.	Silvis, Illinois	May 3, 1925
6 Kildow, Harold	Eldon, Iowa	December 26, 1943
7 Clark, Dewey	Eldon, Iowa	August 25, 1944
8 Johnson, John	Bureau, Illinois	August 29, 1944"

Coal Chute Laborers hold Division seniority, and there is no record of any of these employees exercising their seniority to displace junior employees on the roster. When Mr. McAllister was cut off December 13, 1945, he made no attempt to exercise seniority. Mr. Kildow actually transferred from coal chute laborer to B&B Helper on August 1, 1945, although he could have continued as coal chute laborer. There were coal chute laborers junior to him working at the time. Mr. Ferrell on January 1, 1946 chose to enter B&B service when, as a matter of fact, he could have exercised his seniority as a coal chute laborer.

The employees in Item (3) of their claim request the named Claimants be returned to their positions at Eldon, Iowa. If this Board should so rule, patently Mr. McAllister would have no right to do so in view of his resignation of October 16, 1947 and retirement under the Railroad Retirement Act, and neither would Mr. Kildow in view of the closing of his record on November 20, 1947 by agreement with General Chairman Fisher.

We therefore respectfully petition this Board to deny this claim.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to December 13, 1945, Carrier maintained a coal chute at Eldon, Iowa, which was operated by coal chute employees under the Maintenance of Way Agreement. On or about the foregoing date, Carrier installed an electrically operated coal conveyor to elevate coal from a pit to engine tenders. The operation consisted of loading a hopper car at the coal chute, moving it to the conveyor pit and dropping the coal into it. The throwing of a switch is all that is there required to elevate the coal to the engine tender. The Organization contends that the operation of the electrically operated conveyor is coal chute employees' work. The Carrier contends that it is the coaling of locomotives and consequently not that of coal chute employees.

The parties are in agreement that the coaling of engines at the coal chute is the work of hostlers or roundhouse employees. The record shows the Organization's General Chairman complained under date of February 21, 1941 about coal chute employees being required to coal locomotives and induced the Carrier to relieve them of this work for the reason that it was not under their agreement. Consequently the coaling of locomotives is not the work of coal chute employees under the Agreement before us.

The work complained about in the present dispute is not the work of coal chute employees. The operation here pursued is nothing more than a substitute for the gravity chute at the regular coal chute. The coal chute employees handle the coal as they always did. The fact that some engines are coaled direct by the gravity chutes and others by filling hopper cars which transport it to the conveyor for elevation to the engine tender, in no manner takes work from under the Maintenance of Way Agreements. In a dispute with a similar factual situation, this Board ruled that the operation of an electric driven conveyor at a coaling station was properly assigned to an employee of the Mechanical Department. We adhere to that holding. Award 890. See also Award 4546.

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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 28th day of April, 1950.