

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

LeRoy A. Rader, Referee

**PARTIES TO DISPUTE:**

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES  
MISSOURI PACIFIC LINES**

**STATEMENT OF CLAIM:** "Claim of the System Committee of the Brotherhood; that:

(1) The Carrier violated the effective agreement when it assigned Section Laborers Jesus Sanchez and Luis Sanchez to perform Motor Car Operator's work and failed to compensate them at the Motor Car Operator's rate of pay;

(2) Jesus Sanchez and Luis Sanchez be paid the difference between what they received at Section Laborer's rate and what they should have received at the Motor Car Operator's rate of pay from October 1, 1951, until January 21, 1952."

**EMPLOYEES' STATEMENT OF FACTS:** Luis Sanchez and Jesus Sanchez were required by Carrier officials to be examined on the Carrier's rules pertaining to motor car operators, and having successfully passed such examinations, they were each issued a motor car operator's certificate which enabled them to operate motor cars in accordance with the Carrier's rules and regulations.

They were each issued a standard switch key together with a motor car tool house key and were required to carry a standard railroad watch with the further requirement that such watches be compared once each thirty (30) days, be inspected bi-annually, and cleaned at least within 18 months intervals.

Mr. Luis Sanchez was subsequently assigned to accompany Roadmaster E. E. Johnson daily, while Jesus Sanchez was required to accompany Roadmaster C. C. Rambert daily for the purpose of operating the respective roadmaster's motor cars over their respective districts in order that the roadmasters could give their undivided attention to inspection of tracks, roadbed, etc. Very frequently the claimants were required to operate the motor cars over the respective roadmasters' districts without being accompanied by their respective roadmasters.

The claimants time was carried on a section payroll although they never reported to a section foreman at the beginning or end of a work day, but on the other hand, reported to the roadmaster's office. They were in charge of and responsible for supplying the motor cars with gasoline and oil and for

In view of the fact as shown throughout this submission that the claimants are not motor car operators and the fact they have, for many years, without protest been paid section laborer's rate of pay for the service performed giving rise to this claim, it is the Carrier's request that your Board render a decision denying the claim.

The substance of all matters contained in this submission has been the subject of discussion in conference and/or correspondence between the parties.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The facts, rules of the Agreement, relied on by the parties, correspondence carried on relative to these claims and citation of supporting awards are set out in detail in the record and no useful purpose would be served by an extended review of the same in this Opinion.

We view the question to be decided is whether Claimants, Section Laborers, qualified to operate a Roadmaster's light inspection motor car, are entitled to compensation at the Motor Car operator rate when they are required to operate such cars?

Under the facts presented here, we are of the opinion that the question should be answered in the affirmative and for the following reasons:

Claimants are required, when performing the imposed duties of the position, to carry a standard railroad watch with the further requirement that such watches be compared once each 30 days, be inspected bi-annually and cleaned at least within 18 month intervals. Also the facts presented, in some respects disputed, show that Claimants were required to operate the Motor Cars over respective Roadmaster's districts on some occasions without being accompanied by their respective Roadmasters. It is shown that responsibility is imposed, examinations given, and a degree of care and responsibility exists which places Claimants within the purview of compensation rates of pay as contended for herein.

The alleged distinctions which Carrier presents with respect to differences that exist between laborers accompanying a Roadmaster and those accompanying a Section Foreman as a member of such Foreman's gang do not meet the facts as here presented. Under these facts the distinctions are not borne out in the record.

The matter of practice on any property is entitled to consideration where we are dealing with an ambiguous rule or rules, however, in this instant case we find no ambiguity existing, therefore, a clear application of this Agreement when used as the determinative factor to facts as here presented show a violation of the Agreement. The claim should be sustained.

(Page references relate to original document.)

**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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier violated the Agreement and claims should be sustained.

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AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 27th day of April, 1954.