

Award No. 401
Docket No. 394
2-N&W-EW-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That the operation of electric driven cranes be recognized as coming within the jurisdiction of the electrical workers' classification of work rules as outlined in existing agreement effective July 15, 1938, and that all vacancies and new jobs created will be bulletined as outlined in Rule 17 of existing agreement; that the new crane job now assigned to Electrical Helper R. C. Kanode be bulletined and the senior qualified electrical helper making application be assigned to this position, and that the senior man be paid the difference in the rate of pay from that of 62¢ per hour to that of 75¢ per hour, a difference of 13¢ per hour, from the 21st day of January, 1939, until Rule 17 is complied with.

EMPLOYEES' STATEMENTS OF FACTS: R. C. Kanode, furloughed electrical helper, was returned to service and placed on temporary crane job in the wheel shop in East Roanoke shops, and since this time has been assigned to other vacancies and has been placed on the crane operators seniority roster. This position was never bulletined in accord with Rule 17, reading as follows:

"Rule 17—First and Second Paragraphs

When new jobs are created or vacancies occur in the respective crafts, the oldest employes in point of service shall, if sufficient ability is shown by trial, be given preference in filling such new jobs or any vacancies that may be desirable to them. All vacancies or new jobs created will be bulletined.

Bulletins must be posted five (5) days before vacancies are filled permanently. Employes desiring to avail themselves of this rule will make application, in duplicate, to the official in charge. The official receiving application will, upon receipt, furnish a copy of application to a member of the Local Committee."

R. C. Kanode—seniority as helper is shown on the roster as 7-15-1926. L. L. Ford, electrical helper, the only electrical helper making application for crane job, is shown on the roster as 3-22-1926. The seniority date of electrical helpers in Roanoke shops is as follows:

SENIORITY LIST OF HELPERS (ELECTRICAL) ROANOKE SHOPS

Webb C. R.	Helper Electrical	7-24-1922
Tyler T. B.	" "	7- 1-1925
Sledd R. L.	" "	1- 2-1926

machinists, sheet metal workers (including moulders), electricians and carmen, effective July 15, 1938, the provisions of which confine the operation of electric driven cranes to electrical workers.

The operation of electric driven cranes was purposely omitted from Rule 71—Classification of Electricians; Rule 72—Classification of Linemen, and Rule 75—Classification of Electrical Worker Helpers. The only rule appearing in the agreement that refers to crane operators is Rule 73 which states how electric driven crane operators are to be compensated.

During the discussion of this case with the authorized representatives of the electrical workers, and in correspondence with them pertaining to the case, their claim was that the selection of electric driven crane operators should be confined to electrical helpers.

During the negotiation of the rules appearing in the above mentioned agreement, the carrier advised the negotiating committee that we would not confine the selection of electric driven crane operators to electrical helpers, stating to the committee our reason for taking such a position, and in accordance with our position, electric driven crane operators were omitted as hereinbefore related. The negotiating committee was advised, however, that after a man had been selected as an electric driven crane operator, the carrier then recognized that he came within the jurisdiction of the electrical workers' organization and would be represented by them. In accordance with this understanding, when vacancies have occurred among electric driven crane operators, such vacancies have been bulletined to the crane operators for the purpose of allowing them to exercise their seniority as such in selecting a more desirable crane to operate. The vacancy that must finally be filled by the selection of an additional electric driven crane operator has been filled by a qualified man from any group of employees.

As Exhibit "A," the carrier submits a copy of seniority list of electricians, electrical helpers and cranemen at their Roanoke shops, Roanoke, Virginia. The carrier calls the Board's attention to the fact that cranemen are shown on a separate seniority list and are not shown on the seniority list of electricians or electrical helpers. Electrical linemen are not employed in Roanoke shops, therefore, there is no seniority list for electrical linemen.

In the case of R. C. Kanode, there was a vacancy for an electric driven crane operator, which vacancy was bulletined to the crane operators, and after all assignments were made, the final vacancy was filled by assigning furloughed Electrical Helper R. C. Kanode as a crane operator. R. C. Kanode still holds his rights to return to service as an electrical helper, and if and when needed, he will be recalled to service as an electrical helper, and if he accepts, the vacancy of crane operator will be filled by the selection of a qualified crane operator. The carrier asserts that the assignment of R. C. Kanode was right and proper and that there can be no claim for time payment as requested by the employees.

The carrier further asserts the selection of electric driven crane operators may be made from any qualified employees as has been the practice of the carrier for more than fifteen (15) years.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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.

The parties to said dispute were given due notice of hearing thereon.

The position of electric crane operator comes within the provisions of the current agreement effective July 15, 1935. Vacancies and new positions should be bulletined as provided for in Rule 17. The agreement does not require or prohibit the assignment of electrical worker helpers to these positions.

AWARD

The representatives of the parties to the dispute should endeavor to negotiate a satisfactory adjustment to govern the future assignment of new crane operators.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 10th day of November, 1939.