

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 25, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS
AND AFFILIATED LINES.

DISPUTE: CLAIM OF EMPLOYES: That the management violated Rule 32 and the agreed interpretation thereof dated July 8, 1938, in permitting the blacksmith foreman to perform blacksmiths' work during the period that the back shop was closed.

JOINT STATEMENT OF FACTS: That portion of Rule 32 involved reads as follows:

"None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except Foremen, at points where no mechanics are employed."

That portion of the agreed interpretation of July 8, 1938, reads as follows:

"Foremen may perform mechanics' work in shops or at points where there are no mechanics employed under their supervision."

In April, 1939, it was necessary to reduce operating expenses and the force at Brooklyn shops, with the exception of such mechanics, helpers and supervisors as were necessary to take care of running repair work, were laid off one week, this including all blacksmiths. During that week the blacksmith foreman performed such blacksmith work as was necessary to take care of the running repairs.

POSITIONS OF EMPLOYES: Under date of April 20, 1939, bulletin was posted at Brooklyn shops, advising that the backshop would be closed during period April 24 to April 28, inclusive. A skeleton force was retained in roundhouse to take care of running repairs, senior employes in the backshop being permitted to exercise their seniority rights to place themselves in the roundhouse the week in question. All blacksmith shop employes, with the exception of the oldest blacksmith helper and the blacksmith foreman, were furloughed during the 5 day period April 24 to April 28, inclusive. During this 5 day period blacksmith foreman (with the assistance of the retained helper) was required to perform eight hours blacksmith work, in violation of the first paragraph of Rule 32 of the current agreement, which reads:

"None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except Foremen, at points where no mechanics are employed."

From the interpretation:

"Foremen may perform mechanics' work in shops or at points where there are no mechanics employed under their supervision."
(Emphasis ours.)

The latter expression eliminates all doubt about the conditions under which foremen can perform work. It takes no cognizance whatever of changes in the force brought about by furloughs or otherwise. There is only one injunction; i. e., there must not be any "mechanic employed under their supervision." As soon as a mechanic is employed under their supervision, regularly or otherwise, they must cease the performance of mechanics' work. The interpretation permits of but two situations; i. e., "mechanics working," and "mechanics not working." It indicates specifically what the foremen can do under both conditions.

About the only argument the employees submitted in support of their position was Award No. 316 of the Division, which, while not fully understood, is limited to an interpretation of the so-called standard rule, which the Board held "must be considered as one of limited application." The expression "limited application" will not apply in the face of the interpretation agreed to by **this company and its employees**. This interpretation does not take cognizance of the conditions under which forces may or may not be "employed" under the supervision of a particular foreman.

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 question involved in this dispute is the application of interpretation of Rule 32:

"Foremen may perform mechanics' work in shops or at points where there are no mechanics employed under their supervision."

It is evident that this interpretation contemplated some modification of Rule 32, and the parties could and should have found language to more clearly indicate their intentions.

The question now before us is whether there were mechanics employed under the supervision of the blacksmith foreman. Blacksmiths during this period remained on the payroll, maintained their employment status with the carrier, and were subject to call. They had the same relationship as men on five or six day assignments would have on their day (or days) of rest.

Interpretation of Rule 32, applied to the circumstances in this case, does not support the carrier's position.

AWARD

Claim of employees sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of November, 1939.