

Award No. 599

Docket No. 590

2-B&M-MA-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: That John Laventure, machinist, Concord, N. H. back shop, should be compensated for work performed at his home point February 22, 1940, by a machinist from another seniority district.

That the men employed within a given seniority district are entitled to all the work of their respective classification in said district.

That employes should not be called from another seniority district, if there are employes available to perform the work in the district where the work is to be done.

JOINT STATEMENT OF FACTS: There is an agreement in effect between the parties to this dispute. The effective date of that contract was April 1, 1937. Included in that agreement are the following rules:—

Overtime Sunday and Holiday Work

Rule 3. Work performed on Sunday and the legal holidays, namely; New Years' Day, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas (provided when any of the above holidays fall on Sunday, the day observed by State, Nation or proclamation shall be considered the holiday), shall be paid for at the rate of time and one-half, except that employees and those who may be called to work in their places, necessary to the operation of power houses, millwright gangs, heat treating plants, train yards, running repair and inspection forces, who are regularly assigned by bulletin to work on Sundays and holidays, will be compensated on the same basis as on week days. Sunday and holiday work will be required only when absolutely essential to the continuous operation of the railroad.

Emergency Service

Rule 4. (a) For continuous service after regular bulletined hours, employees will be paid time and one-half on the actual minute basis with a minimum of one (1) hour for any such service performed.

(b) Employees shall not be required to work more than two (2) hours overtime without being permitted to go to meals. Time taken for meals will not terminate the continuous service period and will be paid for up to thirty (30) minutes.

Rule 51 of the machinists' special rules, Agreement of April 1, 1937 says:

"Dead work means all work on an engine which cannot be handled within twenty-four (24) hours by the regularly assigned running repair forces."

The work which was done on Engine 2643 was surely not "dead" work.

Further, Rule 51, first paragraph, reads:

"Where running repair and dead work forces are maintained, it will be the policy to employ such forces in the respective groups to which assigned but such employes may be used on either class of work to meet service requirements."

One of the enginehouse machinists did work in the back shop on Engine 2643 to meet service requirements, the same as is done at other points mentioned when the back shop force is not on duty, including Sundays and Holidays.

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 record in this case shows there is a back shop and an enginehouse adjacent thereto at Concord, N. H. However, the men employed in the back shop have separate seniority from those assigned to the enginehouse.

On February 22, 1940, one of the legal holidays named in Rule 3, the back shop forces were not employed. On this same day a locomotive arrived at the enginehouse with a loose piston, requiring renewal, and the necessary work on the piston head preparatory to its application had to be performed on a machine located in the back shop. An enginehouse mechanic was assigned to do this work.

It is not shown in the record just what amount of time it took to perform the work on the piston head; however, the claim of the employes is for payment to Machinist Laventure under Rule 4, paragraph (d), for the reason that Laventure is regularly assigned to the back shop. Paragraph (d) of Rule 4, reads in part:

"* * * (d) Employes called or required to report for work and reporting will be allowed a minimum of four (4) hours for two (2) hours and forty (40) minutes or less, and will be required to do only such work as called for or other emergency work that is necessary to meet service requirements. * * *"

It is admitted by the employes' representative that there is no objection to an enginehouse mechanic performing certain light running-repair work on machines located in the back shop when back shop forces are not working. On the other hand, management contends that the work performed in the instance involved was clearly a "running-repair" job and that it certainly had a right to use the facility for the purpose mentioned.

The claim in the instant case is divided into three parts, and it is shown under the "Position of Carrier" that it is in accord with the second and third paragraphs of the "Claim of Employes," but maintains that it is proper for enginehouse mechanics to perform running-repair jobs with the use of some of the tools or machines in the back shop when back shop forces are not working.

It is worthy of note to say that the back shop forces work on the day shift only whereas enginehouse forces are employed on three shifts.

An unusual situation is presented in this case, and it would seem that the parties are not far apart in reaching an understanding in respect to what may be necessary for compliance with the rules of agreement.

The parties should decide the nature and extent of such work as they can agree may be performed by enginehouse mechanics during periods when shop forces are not working.

AWARD

The dispute is remanded to the parties in accordance with the last paragraph of the findings, without prejudice to the right of resubmission in the event settlement is not made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 27th day of March, 1941.