

Award No. 854

Docket No. 789

2-B&M-MA-'42

**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 I. R. Streeter must be compensated the difference between straight time and time and one-half for February 22 and February 23, 1941.

EMPLOYEES' STATEMENT OF FACTS: I. R. Streeter entered service as a machinist helper October 31, 1922, promoted to machinist May 18, 1923 at Concord, New Hampshire enginehouse. He is a qualified machinist as per the provisions of Rule 47. He was furloughed from that point (Concord enginehouse) August 5, 1940 and was given work at the Concord back shop (another seniority point) August 8, 1940.

Streeter was later assigned by bulletin to work as machinist in Concord, New Hampshire back shop. On completion of work in the back shop February 21, 1941, the shop closed over Washington's Birthday, February 22 and Sunday February 23, and reopened as usual Monday February 24, 1941.

Position as machinist in the Concord, New Hampshire enginehouse had to be covered the night of February 22 and February 23, it being a position necessary to have filled every day in the year, and Streeter was used in place of the regular man who was off duty and was paid straight time for service performed on those two nights 11:00 P. M. to 7:00 A. M.

The committee claimed time and one half rate for these two days on the basis that the work was performed outside Streeter's bulletined hours but the claim was denied by the management, being handled through the proper channel and is now properly referable to the Second Division of the National Railroad Adjustment Board for its decision.

POSITION OF EMPLOYEES: We wish to call the attention of the Honorable Board Members to the fact that the statement of facts above shown was jointly approved by management and committee. Because of the delay in joint handling of disputes, this and other cases, are being progressed on an ex parte basis.

Since the joint approval, we have made only one change in the statement of facts by substituting the words "time and one half" for the word "punitive."

We contend that I. R. Streeter who was furloughed from the Concord enginehouse and assigned at the locomotive shop, which is a different seniority district, is entitled to rights and privileges equal to his fellow employees at the latter point while covering his assignment there. We further contend

The failure of the employes to present a claim for some enginehouse machinist for not being doubled over on February 22, and 23, 1941, the dates which Machinist Streeter worked in the enginehouse, proves conclusively that they acknowledge it was proper to use Machinist Streeter in the enginehouse and the only question at issue is whether or not he should be paid time and one-half instead of straight time.

The carrier claims that it was proper to call Streeter to work in the enginehouse as provided for in Rule 3 and it was also proper to compensate him at straight time rate.

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 waived right of appearance at hearing thereon.

The evidence of record shows that Machinist Streeter had been furloughed at Concord, N. H., engine house and later was assigned to work as machinist in the Concord, N. H. back shop.

The mechanics employed at the back shop and engine house involved having separate seniority, Machinist Streeter, therefore, was afforded the right of remaining in the position to which he was assigned in the back shop until offered regular assignment at the engine house, and should be regarded as holding the same status as other regular assigned back shop mechanics.

However, inasmuch as there was misunderstanding as to the meaning and intent of the agreement, the claim for additional pay is dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 4th day of November, 1942.