

Award No. 1075

Docket No. 996

2-N&W-EW-'45

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Richard F. Mitchell when award was rendered.

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: 1—That under the controlling agreement and particularly Rules 85 and 111, the operation of electric overhead traveling cranes is the work of electric crane operators.

2—That the carrier violated the controlling agreement and particularly Rules 30 and 85, when from 3:30 P. M. to 9:00 P. M. on March 21, 1944, Machinist Helper Shaffer was improperly assigned to operate one of these electric overhead traveling cranes.

3—That the carrier be ordered to

- (a) Discontinue the assignment of machinist helpers or other than electric crane operators regularly employed as such to operate electric overhead traveling cranes.
- (b) Additionally compensate Crane Operator R. J. Lemon at the time and one-half rate from 3:30 P. M. to 9:00 P. M. on March 21, 1944.

EMPLOYEES' STATEMENT OF FACTS: At Roanoke, Virginia shops, the carrier maintains about 50 electric overhead traveling cranes and three shifts of electric crane operators. There are 40 electric crane operators employed on the first shift, and 3 electric crane operators employed on the second shift, and 3 electric crane operators employed on the third shift.

These electric crane operators are all carried on the same seniority roster.

Electric Crane Operator R. J. Lemon, the claimant, was regularly employed as such on March 21, 1944, on the 7:00 A. M. to 3:30 P. M. shift.

Machinist Helper Carl Shaffer, regularly employed as such on the 7:00 A. M. to 3:30 P. M. shift, was assigned to operate one of these electric overhead traveling cranes from 3:30 P. M. to 9:00 P. M., on March 21, 1944.

This dispute has been appealed in accordance with the terms of the controlling agreement effective August 16, 1943, up to and including the highest designated carrier officer to whom such matters are referable, and the carrier has declined to adjust this dispute.

Next we offer as Exhibit B, Memorandum Agreement dated July 3, 1942, which was made at the request of the general chairman of the electrical workers' organization to protect the seniority of electrical helpers promoted to crane operators.

The general chairman of the electrical workers' organization next requested that the helper powerhouse attendants at Roanoke Shops be considered for new crane operator jobs, and the carrier offers as Exhibit C Memorandum Agreement dated May 28, 1943, which embodies the two prior Memorandum Agreements, and, in addition, agrees to consider helper powerhouse attendants.

The Board will note, however, that these Memorandum Agreements do not relinquish the right of the carrier to use as an extra crane operator any qualified man, but on the contrary, they only provide for the assignment of new crane operators as directed by your Board.

On account of the varied work of the assignment of cranes in Roanoke Shops, where locomotives and cars are being built and repaired, the carrier is compelled to reserve the right to use any qualified man as extra crane operator. For the safety of operation, a helper of one of the crafts in each shop, who is familiar with the work carried on in that shop, has been qualified as an extra crane operator. The helper thus qualified is a safer crane operator in the shop where he is regularly assigned as helper than one who has not worked in that shop. As an example, a helper in the foundry is qualified to operate the cranes and is familiar with the pouring of hot metal handled by these cranes, whereas, a crane operator in another department would not be familiar with this class of work.

The carrier contends as follows: Item 1 of the claim is without foundation, and that Rules 85 and 111 do not create a monopoly of all electric overhead crane work for the regularly assigned crane operators. Item 2, that the carrier has violated no rule in operating the crane, to which no crane operator is regularly assigned, with a qualified extra crane operator. Item 3-a, we should not be ordered to discontinue the assignment of a machinist helper, or other than electric crane operators regularly employed as such, to operate electric overhead traveling cranes to which no crane operator is regularly assigned, or to fill vacancies account regular crane operators laying off. Item 3-b, the carrier contends that neither R. J. Lemon nor any other crane operator is entitled to the time claimed, namely, time and one-half from 5:30 P. M. to 9:00 P. M.

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 same parties under the same agreement involving a similar claim were before this Board in Docket 394, Award 401. This Board without a referee remanded the matter back to the parties for negotiation, and an agreement was entered into, dated February 15, 1941, which provided for the assignment of overhead crane operators when the job became permanently vacant or vacant for more than sixty days.

Under the facts set out in this record, the claim for compensation can not be allowed. The case is referred back to the representatives of the employes and the carrier involved to further negotiated a mutual understanding of the manner in which extra work should be assigned when cranes not regularly used are required for service in accordance with Award 401.

AWARD

Dispute remanded in accordance with above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 15th day of May, 1945.