

Award No. 1907

Docket No. 1773

2-PRR-URRWA,CIO-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Mortimer Stone when the award was rendered.

PARTIES TO DISPUTE:

UNITED RAILROAD WORKERS OF AMERICA, C.I.O.

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the Carrier is not authorized, under the Controlling Agreement, to use a Stationary Fireman who is covered by an entirely different graded work classification and separate seniority roster, in the performance of Laborer's duties at Rose Lake, Illinois, Southwestern Division, Western Region of The Pennsylvania Railroad Company.

2. That the Carrier be ordered to additionally compensate E. E. AHLERT eight (8) hours, each day: November 1, 8 and 10, 1952, at the prevailing Laborer's rate for the duties so performed, in addition to his regular duties of Stationary Fireman.

EMPLOYEES' STATEMENT OF FACTS: There is an agreement between the parties hereto dated July 1, 1949, and subsequent amendments, copies of which are on file with the Board and is, by reference hereto, made a part of this statement of facts.

At Rose Lake, Illinois, Southwestern Division, Western Region, The Pennsylvania Railroad Company, hereinafter referred to as the carrier, employs a force of stationary Firemen.

E. E. AHLERT is employed as a stationary fireman at the seniority point in question and will, hereinafter, be referred to as the claimant.

The claimant performed the following laborer's work on the days mentioned in the subject:

"11- 1-52—First trick wiping engine 9184, also unloading car of coal at boiler room

11- 8-52—First trick, watching steam engine in Engine House

11-10-52—Second trick, watching steam engine in Engine House"

A claim was instituted at the foreman's level for eight (8) hours at the applicable laborer's rate of pay, for each of the days enumerated above,

The Railway Labor Act, in Section 3, First, sub-section (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of agreements concerning rates of pay, rules or working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the agreement between the parties to it. To grant the claim in this case would require the Board to disregard the agreement between the parties and impose upon the carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to the agreement. The Board has no jurisdiction or authority to take any such action.

CONCLUSION

The carrier has established that the use of the claimant temporarily on other than his regular position, November 1, 8 and 10, 1952, was entirely proper and permissible under Regulation 4-J-1 of the applicable agreement and that the claimant is not entitled to the compensation which he claims.

Therefore, the carrier respectfully submits that your Honorable Board should deny the claim of the organization in this matter.

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.

Claimant was assigned as Stationary Fireman on an engine which was being utilized to supply steam heat to certain offices while the power plant boilers were out of service. While so assigned, he was required to unload a car of coal at the boiler room, to wipe an engine and to watch two engines—all during his regular tour of duty—for which he was paid at the stationary fireman rate. He claims additional pay at the laborer's rate for each day where required to do such laborer's work.

Carrier asserts that the unloading of cars of coal has always been performed there by the stationary fireman incident to the operation of the power plant as part of his regular assignment. More broadly it defends against the entire claim by asserted right to require such service under Regulation 4-J-1 of the Agreement, and particularly its third paragraph reading:

"An employe required to fill temporarily the place of another employe receiving a lower rate, shall not have his own rate changed."

That such temporary employment may be required as part of an assigned tour of duty is evident from Regulation 4-J-2 of the Agreement.

Award 1749 involved claim of assigned carmen under the identical agreement, who claimed additional compensation by reason of having been required to unload part of a carload of soda ash and other material, which, it was asserted, was work of assigned laborers subject to another agreement, and not within the confines of their craft.

Carrier there also relied on the above quoted paragraph of Regulation 4-J-1 and this Division, without referee, held there was no violation. We think that award is controlling here.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of March, 1955.