

Award No. 2327
Docket No. 2098
2-WAB-MA-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 13, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Machinists)**

WABASH RAILROAD COMPANY

DISPUTE: Claim of Employees: (1) That under the current agreement the Carrier, on December 28th and 29th, 1954, improperly assigned the work of repairing a boiler feed-water pump to other than the machinist craft.

(2) That the Carrier be ordered to:

(a) Cease and desist from assigning this work to other than machinist craft.

(b) Compensate Machinist E. J. Cooke in the amount of a four (4) hour call for each of the above dates.

EMPLOYEES STATEMENT OF FACTS: At Decatur, Illinois, the Wabash Railroad Company maintains a locomotive shop (back shop) with a working force of approximately 200 employees. In the same shop yard and approximately 100 feet from the locomotive shop is the stationary power plant.

From December 27 to 30, 1954 inclusive, the men in the locomotive shop were off work on the additional vacation granted in 1954. A few men from each craft were held for necessary work.

December 28, 1954, Mr. W. N. Dempster, shop superintendent, instructed the stationary engineer, in the power plant, to dismantle a boiler feed-water pump to the extent necessary to remove the valve stem for machining in the locomotive shop machine shop. In doing this it was necessary to remove the steam chest cover, disengage the valve stem from the valve and rocker arm. The valve stem was then taken to the machine shop where a machinist performed the necessary machine work on the valve stem. On December 29, 1954 the valve stem was returned to the power plant and the stationary engineer replaced the valve stem and reassembled the boiler feed-water pump.

1, 1940, was negotiated, the machinists of System Federation No. 13 had ample opportunity to know of the provision in that agreement appearing in Rule 1, reading:

“(c) Stationary engineers and firemen may make repairs or perform other work incidental to the maintenance or operation of stationary power plants * * *”

Had the machinists objected to that provision, they would have taken exception to it at that time, and since they did not, it must follow that such provision had their acquiescence. It is significant that the language appearing in Rule 1 of the firemen and oilers' agreement, quoted above, is almost identical with the language used in the same connection in Rule 28 of the shop crafts' agreement, which indicates a relationship between the two agreements, rather than a coincidence.

It is of considerable significance that since the effective date of the June 1, 1939 agreement there have been two supplements to that agreement, negotiated as a result of notices served by System Federation No. 13 for a change of rules. There were no changes requested by System Federation No. 13, and none negotiated, in these two supplemental agreements that in any way affected the original proviso in Rule 28 under which stationary engineers and firemen were permitted to make minor repairs and perform other work incidental to the operation or maintenance of stationary power plants. This occurred despite the fact that Supplement “A”, effective March 1, 1943, brought about a change in Rule 28 but of a nature relating to other matters not pertinent to this dispute.

Throughout the entire life of the controlling agreement, effective June 1, 1939, and before that as far back as anyone can remember, stationary engineers have performed the same kind of work that has been made the subject of this dispute, and other similar work incidental to the operation or maintenance of stationary power plants. Even though that practice is of many years standing, and supported by plain and unambiguous rules of both the shop crafts' and firemen and oilers' agreements, the Board is being asked to order the carrier to cease using stationary engineers in the performance of such work on the theory that it is classified as machinists' work.

Without waiving or, in any way, prejudicing its position, hereinbefore set out, the carrier contends that that part of the committee's claim 2(b) reading:

“Compensate Machinist E. J. Cooke in the amount of four (4) hour call for each of the above dates.”

is entirely without foundation. In the first place, at no time during their handling of this case on the property did the committee make any claim or present any grievance, on behalf of E. J. Cooke. In the second place, E. J. Cooke worked a full eight hour tour of duty on each of the dates in question, December 28 and 29, 1954, for which he was paid eight (8) hours at straight time rate. The work in question was performed during regular working hours, and had that work been properly assignable to the machinists' craft, overtime would not have been worked by machinists; instead, the work would have been done by machinists during regular working hours. There is no rule on which the employees can rely to justify a punitive payment in addition to regular daily compensation.

The assignment of work involving repairs to a boiler feed-water pump on December 28 and 29, 1954 was proper under the conditions and circumstances that existed, and there was no violation of the current agreement in connection therewith, as contended in Item 1 of employees' statement of claim. There is no merit to the employees' position as presented in Item 2 of the statement of claim. The contentions of the committee should be dismissed and the claim denied in its entirety.

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 organization asks that Machinist E. J. Cooke be compensated for four (4) hours, a call, on both December 28 and 29, 1954. The basis for the claim is that carrier improperly assigned to and had performed by an employe, other than a machinist, the work of repairing a boiler feed-water pump on the foregoing dates.

On December 28, 1954 one of the feed-water pumps on carrier's stationary power plant at Decatur, Illinois stopped running. However, the power plant was equipped with two feed-water pumps so it remained in operation. Stationary Engineer L. Corrington removed the cover from the steam valve chamber and found the valve rod, or stem, worn to the extent that the nut had become disengaged. To do so he removed eight (8) $\frac{7}{8}$ " nuts from studs and lifted the cover. He then disconnected the valve stem. On the following day, December 29, 1954, he replaced the valve stem, going through the same procedure in doing so. That is, he connected the valve stem, replaced the cover and fastened it by replacing the nuts.

Rule 55 of the parties' applicable agreement, which relates to the "Classification of Work," provides, insofar as here material, that:

"Machinists' work shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling and grinding of metals used in building, assembling, maintaining, dismantling and installing * * *, pumps, * * *."

Rule 28 thereof, as modified by Supplement A agreed to by the parties February 23, 1943 and effective March 1, 1943, provides, insofar as here material, that: "none but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft." This requirement, however, is qualified by the following: "Except as otherwise provided by the rules of this agreement."

In this respect the fourth paragraph of Rule 28 provides:

"This agreement * * * will not be construed as prohibiting stationary engineers and firemen from making minor repairs or performing other work incident to the operation or maintenance of stationary power plants while such plants are in operation and not out of service for repairs."

We think the factual situation here, on which the claim is based, falls within this exception. In view thereof we find the claim to be without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of November, 1956.