

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 121, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)
THE TEXAS AND PACIFIC RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: Proper interpretation of Rule 19.

JOINT STATEMENT OF FACTS: Mechanical employes are working five seven-hour days per week. Rule 19 reads:

"RULE 19

"Reducing Forces

"(a) Fluctuating traffic being the governing factor in the increases or reductions in expenses, this rule is designed to meet this condition with as little disturbance as possible to regularity of employment, as to the method of meeting these fluctuations is primarily in the interest of the employes, it is incumbent upon both the management and the local representatives to so regulate the bulletined hours of assignment as to reduce to the minimum the increase and decrease of the number of men employed.

(b) When it becomes necessary to reduce expenses the hours may be reduced to thirty-five (35) per week, seven (7) hours per day, before reducing the force. When the force is reduced the youngest men in the service of the Company will be the first to be laid off.

(c) In no case shall the bulletined hours per week be less than seven (7) or the days per week less than five (5).

(d) The maximum number of bulletined hours per week on six day assignments shall not exceed sixty. The practice at points where the custom is in effect to stop work on Saturdays at 4:00 P. M. for the convenience of the forces on the day shift, (with the exception of regularly assigned enginehouse and miscellaneous employes that are necessary for the continuous operation of the service, will continue in effect.

(e) Twenty-four (24) hours' notice will be given before hours are reduced. If the forces are to be reduced forty-eight (48) hours' notice will be given the men affected before reduction is made.

(f) Hours may be restored before restoration of forces. In restoring forces, senior men laid off will be given preference.

(g) In the reduction and restoration of forces the ratio of apprentices will be maintained.

(h) When necessary to make temporary increases or reductions of expenses at any point or in any department or subdivision thereof, either force, hours, or both, may be increased or reduced. In the adjustment of forces, employes will take the rate of the job to which assigned, seniority as per Rule 22, to govern."

There is no complaint as to the application of the rule as applied in back shops and car shops. The question in controversy is its application in round-house and train yard.

POSITION OF EMPLOYEES: In January, 1935, the committee requested that the carrier comply with Rule 19, paragraph (c), in establishing a minimum work-week of not less than seven hours per day, and five days per week.

The carrier, in making the adjustment, also applied it to regularly assigned employes in roundhouse and train yards, by reducing the days to five days per week but continuing to work the job seven hours per day and seven days per week, filling the places of the regularly assigned men with other regularly employed men.

The committee claims it is a violation of Rule 19, paragraph (b), because there is no reduction in expense, because the same number of man-hours was worked under the reduction of days as was before, and, therefore, requests that the days be restored to seven days per week, and the men be paid for such time lost as caused by reducing the number of days.

POSITION OF CARRIER: The purpose of Rule 19 is to reduce to a minimum the increase and decrease of the number of men employed, as is clearly shown in paragraph (a); and to carry out the intent of the rule before reducing force, the work should be divided among those in the service in accordance with paragraphs (b) and (c), allowing those retained in the service to earn a minimum of five seven-hour days per week, which permits maintaining the maximum number of men in the service.

Should it become necessary to increase the number of man-hours, then in accordance with paragraph (f), this may be accomplished by restoration of hours worked by those in the service, or by increasing the force. The above deals with permanent assignments, which is the issue in this case.

Would call the Board's attention to the fact that there is nothing in the rule restricting the application to back shops and car shops; and we hold the rule is applicable in the roundhouse and train yard in the same manner as it is to back shops and car shops.

Temporary increase or reduction to be handled in accordance with paragraph (h).

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.

It developed at the hearing on this docket, the parties at interest were in disagreement on many important questions of fact, and it appears that negotiations were not properly concluded.

AWARD

This dispute is remanded to the interested parties (carrier and employe representatives) in the belief that they can and should effect an amicable adjustment of the matter, but without prejudice to the rights of either or both parties to the dispute to resubmit the case to this Board.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 27th day of January, 1937.