

Award No. 179

Docket No. 196

2-MP-MA-'37

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That Machinist A. W. Talbot and Machinist Helper Frank Carter be compensated equal to amount of time consumed by Boilermaker Kennedy and Laborer Dennis in setting tires on engine 1436 on April 24, 1937, at Victoria, Missouri, and in addition, time necessary traveling Poplar Bluff to Victoria and return to Poplar Bluff, and time waiting at Victoria, i. e.:

- 3 hours traveling to Victoria
- 4½ hours amount of time consumed setting tires
- 1½ hours waiting at Victoria
- 3 hours traveling Victoria to Poplar Bluff

at regular rate as provided in wage agreement, Rule 7 (a):

"Rule 7 (a) An employe regularly assigned to work at a shop, enginehouse, repair track, or inspection point, when called for emergency road work away from such shop, engine house, repair track, or inspection point, will be paid from the time ordered to leave home station until his return for all time worked in accordance with the practice at home station and straight-time rate for all time waiting or traveling."

EMPLOYEES' STATEMENT OF FACTS: On April 24, 1937, engine 1436 slipped two driver tires on line near Victoria, Missouri. Engine was placed on siding at Victoria, and Boilermaker Kennedy and Laborer Dennis were sent from Bismarck, Missouri, to Victoria to set tires.

POSITION OF EMPLOYEES: We contend that management in sending a boilermaker and laborer to Victoria to set tires on engine 1436 violated Rule 52 (a), Machinists' "Classification of Work":

"Rule 52 (a) Machinists' work, including regular and helper apprentices, shall consist of laying out, fitting, adjusting, shaping, boring, slotting, milling, and grinding of metals used in building, assembling, maintaining, and installing locomotives and engines (operated by steam or other power), engine inspecting; pumps, engine jacks, cranes, hoists, elevators, pneumatic and hydraulic tools and machinery, shafting and other shop machinery; tool and die making, axle truing, axle, wheel and tire turning and boring; air equipment, lubricator and injector work; oxyacetylene, thermit and electric welding on work generally recognized as machinists' work; the operation of all machines used in such work; machine and link grinding and passenger motor cars; and all other work generally recognized as machinists' work. Machinists may connect and disconnect any wiring, coupling, or pipe connections necessary to make or repair machinery or equipment."

and Rule 53—"Machinists Helpers" classification of work—

Francis at 4:00 A. M., had set the left main driving tire and were preparing to raise engine on the right side for the purpose of setting the right back tire. Machinist Francis immediately went to work upon his arrival and completed the job.

All employes engaged in this emergency road service were properly compensated for the services they performed under Rule 7 (e) of our wage agreement with the shop employes reading:

"7-(e) Wrecking service employes will be paid under this rule, except that all time working, waiting or traveling on Sundays and holidays will be paid for at rate of time and one-half, and all time working, waiting or traveling on week days after the recognized straight-time hours at home station will also be paid for at rate of time and one-half."

POSITION OF CARRIER: Employes contend in the presentation of this case that Machinist Talbot and Machinist Helper Carter at Poplar Bluff were entitled to the call and the following remuneration:

3 hours traveling to Victoria
 4½ hours time consumed setting tires
 1½ hours waiting at Victoria
 3 hours traveling to Poplar Bluff at their regular rate of pay under Rule 7-(a) of wage agreement, reading:

"7-(a) An employe regularly assigned to work at a shop, engine-house, repair track, or inspection point, when called for emergency road work away from such shop, engine house, repair track, or inspection point, will be paid from the time ordered to leave home station until his return for all time worked in accordance with the practice at home station and straight-time rate for all time waiting or traveling."

Talbot and Carter are regularly employed at the Poplar Bluff roundhouse, assigned hours 8:00 A. M. to 5:00 P. M., and so employed on April 24, 1937.

They were not called for emergency road work, and there is no rule in our wage schedule nor practice thereunder to support such a claim.

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 class of work necessary on engine 1436 at Victoria was machinists' and machinist helpers' work under the terms of the existing agreement.

The circumstances surrounding this particular case were of such a nature that strict application of all the rules of agreement involved was hardly possible, and, therefore, suggests lack of equity.

AWARD

Claim dismissed for lack of equity.

NATIONAL RAILROAD ADJUSTMENT BOARD
 By Order of Second Division

ATTEST: J. L. Mindling
 Secretary

Dated at Chicago, Illinois, this 21st day of October, 1937.