

Award No. 229
Docket No. 235
2-CRI&P-BM-'38

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 6, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**THE CHICAGO, ROCK ISLAND & PACIFIC
RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYES: That Rule 31 (under general rules) of the existing agreement was violated at Inver Grove, Minnesota, when on the nights of May 17 and 18, 1937, the night boilermaker helper, regularly employed on the night shift, was required to perform the boilermaker's work, and because of this violation, J. W. Jonas, the boilermaker employed on the day shift at that point, should be compensated for those two nights at the rate of time and one-half as per Rule 12 of the agreement, quoted hereinafter.

EMPLOYES' STATEMENT OF FACTS: At Inver Grove, Minnesota, two boilermakers are employed, one on the day shift and one on the night shift. On the nights of May 17 and 18, 1937, the night man laid off, and instead of notifying the day man to double in to fill the vacancy, the boilermaker helper, employed off the night shift, was ordered to perform the mechanic's work. No effort was made by those in charge to notify the day man that this vacancy would exist on either night, as had been the practice for many years past, and in seeking to justify the suspension of the rules in the instant case, the management, both in conference and through correspondence, has endeavored to place the blame on the fact that Mr. Jonas, the day man, had no telephone, and that he lived out of calling distance. Mr. Jonas has lived at his present address for several years, has had no telephone at any time, and the distance from the shops to his home is approximately one-half mile; and the very fact that he has been called on previous occasions to perform work outside of his regular assigned hours since living at his present address, renders their claim in that respect irrelevant and without foundation. The management endeavors to justify their failure to notify Jonas on May 18, or the second day while he was on duty that the night man would be off on that night; also, by claiming that it was not known by those in charge as to whether there would be work for a mechanic on that particular night or not. Inver Grove, Minnesota, is a running repair point, and the mechanical work necessary to the proper maintenance of locomotives running into that point is such as to require the services of a boilermaker, both day and night, seven days per week, and that fact is so recognized and is borne out by the fact that both the day and night boilermaker have been so assigned for the past several months.

Rule 31 (general rules) reads, first paragraph:

"None but mechanics or apprentices regularly employed as such shall do mechanics' work as per special rules of each craft, except foremen at points where no mechanics are employed."

Rule 12 (general rules) reads in part:

claimant in this case, any compensation for the two nights in question, because, first, he performed no work, and, second, he was not available for call, having no telephone and not living within calling distance of the round-house. Had Mr. Jonas been available, he would have been called but would have been paid only on a call basis, as he would only have been held on duty sufficient time to do the emergency work, as per provisions in fourth paragraph of Rule 6.

We understand the employes contend that because on certain other occasions when it was known the night boilermaker would be off, and it was also known that boiler work would be required on those nights, the day boilermaker was notified before he went off duty to report for work that night, the carrier is obligated at all times to notify the day boilermaker to report for work when it is known the night man will lay off. There is no logic to this contention, because, while the night boilermaker is regularly assigned, and had he not laid off he would have been used and paid, when he does lay off, and there is no indication that there will be need for a boilermaker, there is no requirement that we notify the day man to fill the night man's position; and on May 17 and 18, 1937, it was not known there would be emergency boilermaker's work to take care of on the night shift. This claim should be declined.

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.

Rule 31 of current agreement was violated at Inver Grove, Minnesota, when night shift boilermaker helper was required to perform boilermaker's work May 17 and 18, 1937. J. W. Jonas, the boilermaker employed on the day shift, makes a claim for this work account of being the only boilermaker available entitled to the work.

The submissions do not definitely state the length of time boilermaker helper was used, but show he was used on boiler work a part of each of the nights in question.

Rule 6 covers method of payment for overtime and calls.

AWARD

Boilermaker J. W. Jonas is entitled to payment in accordance with the provisions of Rule 6 for the time boilermaker helper was used to perform boiler work at Inver Grove, Minnesota, May 17 and 18, 1937.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of March, 1938.