

Award No. 312

Docket No. 282

2-MP-MA-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee John A. Lapp when award was rendered.

PARTIES TO DISPUTE:

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

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That Class B Machinist H. A. Haynes, Alexandria, Louisiana, be compensated for all time lost subsequent to August 24, 1937, due to being furloughed at Alexandria.

EMPLOYEES' STATEMENT OF FACTS: Effective August 24, 1937, force reduction of one class B machinist was made at Alexandria, Louisiana; H. A. Haynes was employee affected.

POSITION OF EMPLOYEES: Missouri Pacific Railroad Company employs two classes of machinists, identified as class A machinists and class B machinists. At Alexandria, Louisiana, ratio of class B machinists in relation to class A machinists is one class B machinist to three class A machinists.

Prior to August 24, 1937, number of class A machinists in service at Alexandria was in excess of twelve; number of class B machinists in service was three, the fourth class B machinist having been furloughed at some date prior to November 1, 1934 (date first A. F. of L. agreement on Missouri Pacific properties) and has never been restored to service.

Effective August 24, 1937, force reduction at Alexandria of one class B machinist was made, employee affected was Class B Machinist H. A. Haynes. Number of machinists remaining in service subsequent to this reduction was in excess of twelve class A machinists and two class B machinists.

It is our position that the management by their action in making the above described reduction violated provisions of Rule 13, paragraph (f) of wage agreement.

"(f) In reduction of forces these classes of employees will be laid off in same ratio to journeymen mechanics."

Consequently, we are requesting that H. A. Haynes be compensated for all time lost due to violation as described.

CARRIER'S STATEMENT OF FACTS: Effective August 24, 1937, the following force reduction made in machinist craft at Alexandria, Louisiana:

2 Machinists Class A
1 Machinist Class B

in accordance with Rule 13 (f) of wage agreement reading:

and ten Class B machinists, then if three Class A machinists were laid off, one Class B machinist must be laid off. This was a mandatory requirement.

In furtherance of the purpose gradually to eliminate Class B mechanics, it was provided that the carrier, in restoration of forces may return Class B mechanics in the same ratio as A mechanics. The carrier is not required to do so. The whole purpose of the rule was to keep the Class B mechanics from displacing Class A men and gradually to establish one class only. Nothing is said about the A men being laid off in proportion to the Class B men. Whether it was the intention of the rule to permit the reduction of Class B men, without a corresponding reduction of A men, is not entirely clear.

The purpose is understood, but the employees insist that the purpose must be accomplished in a different way. They insist that Class A men must be reduced in the same ratio to Class B men, but they point out that immediately the Class A men could be called back without reference to the ratio of Class B men. Thus, in a given case, if it was desired to lay off three B men, and the ratio between B men and A men was one to three, then nine A men would have to be laid off, but the nine A men could be immediately called back and none of the B men.

Even if the ratio had to be maintained in lay offs, there could not be mathematical exactness when only two or three employees were involved. All that would be necessary would be an approximation. In the present case, the approximation was near enough when two A men were laid off and one B man.

The claim in this case is for compensation for time lost, while the claimant was furloughed in alleged violation of the rule. Such a claim must be predicated upon the right of the B mechanics to their jobs and not because someone else was not laid off at the same time. The carrier had a right to lay off the B men, and if they failed to lay off somebody else, and thereby violated a rule, the B men could not claim compensation. The B men had no assurance of their jobs for it would be possible for the employer to lay them off along with A men and then take back the A men without any of the B men.

The claim for compensation must be denied on the ground that even if the rules were violated Class B men could not be assured that they would have been retained if the rules had not been violated.

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 employees 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.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of February, 1939.