

Award No. 336
Docket No. 360
2-DL&W-EW-'39

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (ELECTRICAL WORKERS)**

**THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: The restoration of the five cents (5¢) per hour in rate of pay to Edward Williams, electrician, at Buffalo electric shop, retroactive to January 1, 1938.

EMPLOYEES' STATEMENT OF FACTS: Electrician Edward Williams has received five cents (5¢) per hour more than other electricians at the Buffalo electric shop since 1932, and was receiving five cents (5¢) more than other electricians at the Buffalo electric shop when the agreement between the carrier and System Federation No. 78, covering the employees in the Maintenance of Way and Structures Department (including the Memorandum of Agreement), was signed December 3, 1935, copy of which is submitted as employees' Exhibit A, and reads as follows:

"It is understood and hereby agreed that the present rates of pay are to continue until notice of desire to change is given by either party, under the proper notification as provided for in the agreement."

Edward Williams was receiving the rate of pay of eighty-six cents (86¢) per hour as of July 31, 1937, while other electricians at Buffalo electric shop were receiving eighty-one cents (81¢) per hour. On August 1, 1937, growing out of the final decision of the Mediation Board regarding Case No. A-395, all employees were granted an increase of five cents (5¢) per hour, making the rate of pay for Williams ninety-one cents (91¢) per hour and other electricians' rate of pay eighty-six cents (86¢) per hour, and continued to receive this rate of pay until January 1, 1938, when management reduced his hourly rate of pay five cents (5¢) per hour, arbitrarily and without proper notification as provided for in the agreement of December 3, 1935.

Edward Williams entered the service of the Lackawanna Railroad Company January 5, 1923, and has performed electrical workers' (mechanics') work eight hours per day, covered by and specified in Rule 50 of the agreement effective December 3, 1935, and is now performing the same work in the same manner, with his rate of pay reduced to the sum of five cents (5¢) per hour.

On August 1, 1932, when Electrical Foreman Edward McMillan in Hoboken, New Jersey, was demoted to a mechanic and assigned to position

Prior to January 1, 1938, Mr. Williams had been assigned and from time to time acted as a leadman in the electrical department and as such received five cents (5¢) per hour in addition to the established rate of pay of his craft, in accordance with Rule 42 of the agreement effective December 3, 1935, between the parties hereto.

In December, 1937, Mr. Kane, electrical supervisor, notified Mr. Williams that effective January 1, 1938, his assignment as leadman would be revoked and he, Mr. Williams, would be relieved of leading and directing other members of the gang.

POSITION OF CARRIER: The claim in this case represents a differential of five cents (5¢) per hour in rate of pay, payable to a working mechanic on account of an assignment of such mechanic as a leadman in accordance with Rule 42 of the agreement effective December 3, 1935, between the parties hereto.

Rule 42 of said agreement provides as follows:

"LEADMEN

Rule 42. In small gangs a working mechanic may be assigned who will take the lead and direct the work of other members of a gang in his craft and on his class of work. For such services a differential of five (5) cents per hour will be paid in addition to the established rate of the craft."

Prior to January 1, 1938, Mr. Williams had been assigned as a leadman of a gang working in the Buffalo District and, on account of such assignment and for acting as such leadman (leading and directing other members of a gang), he was paid the differential of five cents per hour in rate of pay as provided in said Rule 42.

In December, 1937, Mr. Kane, electrical supervisor, advised Mr. Williams that effective January 1, 1938, his assignment as leadman would be revoked and he, Mr. Williams, would be relieved of leading and directing the work of other members of the gang.

Since January 1, 1938, Mr. Williams has not been assigned as a leadman of a gang, nor has he lead or directed the work of other members of a gang pursuant to an assignment, which would entitle him to the differential of five cents per hour in rate of pay under this Rule 42.

It is our contention that under this rule an assignment of a working mechanic to take the lead and direct the work of other members of a gang may be made and revoked at the option of the railroad company. After such an assignment is made, and until it is revoked, the mechanic so assigned as leadman is entitled to the differential of five cents per hour in rate of pay, but after such assignment is revoked, the mechanic whose assignment is so revoked is no longer entitled to the differential of five cents per hour in rate of pay.

As appears from the facts in this case, effective January 1, 1938, the assignment of Mr. Williams was revoked and he was relieved of taking the lead and directing the work of other members of the gang. Therefore, Mr. Williams is not entitled to the restoration of five cents per hour in rate of pay retroactive to January 1, 1938.

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 waived right of appearance at hearing thereon.

Edward Williams was assigned and paid as a leadman under Rule 42.

Effective January 1, 1938, this position was abolished; therefore, the leadman's rate no longer applied.

AWARD

Claim of the employes denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 24th day of May, 1939.