

Award No. 355

Docket No. 379

2-DL&W-FT-'39

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

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

DISPUTE: CLAIM OF EMPLOYES: This claim is stated in a letter dated April 15, 1939, from Thomas Maddock, president, System Federation No. 78, to C. J. Scudder, chief of motive power of the railroad company, as follows:

"That Rule 27 of the Motive Power and Equipment Department Agreement, effective November 1, 1935, is being violated by the Company instructing 'Gang Leaders' as covered by Rule 14, to perform mechanic's work."

JOINT STATEMENT OF FACTS: Gang leaders, as shown on the Delaware, Lackawanna and Western Railroad Classification of Employees, were employed prior to the effective date of agreement with System Federation No. 78, Railway Employees' Department, American Federation of Labor, Mechanical Section Thereof, dated November 1, 1935, and at present time there are a number of such positions in all crafts located at different points on the system. Such employees receive five cents per hour over the basic rate of the employees they lead.

Gang leaders, at points where mechanics are employed, direct the activities of small groups, consisting of employees of their craft; in addition they perform the work of their craft.

POSITION OF EMPLOYES: The employees contend that gang leaders, as covered by Rule 14 of the current agreement, who supervise other employees, take charge of and direct the work performed by other employees, order material, keep record and sign the time slips, keep records of the amount of work performed under their supervision or leadership, are holding positions of supervisory capacity; therefore, are not permitted to perform mechanics' work as per special rules of each craft. That by management requiring these gang leaders to perform mechanics' work of any craft where mechanics are employed, they are doing so in violation of Rule 27, reading in part as follows:

"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."

At the points in question, it will be noted that there are a number of mechanics employed of the craft, who the leaders supervise.

accordance with special rules of their craft. We, therefore, respectfully request that your Honorable Board deny this 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 agreed-to joint statement of facts in the submission contains this language:

"Gang leaders, as shown on the Delaware, Lackawanna and Western Railroad classification of employes, were employed prior to the effective date of agreement with System Federation No. 78 * * * at present time there are a number of such positions in all crafts located at different points on the system; such employes receive 5¢ per hour over the basic rate of the employes they lead."

The rules of agreement and the practices on the property contemplate the use of gang leaders in small gangs, who, in addition to performing the regular work of their craft, will give direction and assistance to other members of the gang.

What constitutes "small gangs" is a matter that is difficult for this Division to determine, as the circumstances may vary, but it was not the intent of the rule that such gang leaders would have general supervision over substantial gangs of men.

AWARD

Gang leaders are subject to all of the provisions of the rules in the agreement.

Filling such positions will be done as provided for in Rule 13.

Details in connection with the proper application of this award to be worked out in conference.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 25th day of July, 1939.